

HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for)
Certification of the) Docket No. 99-AFC-2
THREE MOUNTAIN POWER PROJECT)
(OGDEN ENERGY, INC.))
_____)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

TUESDAY, MARCH 21, 2000
9:00 A.M.

Reported by:
Debi Baker
Contract No. 170-99-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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William J. Keese, Chairman, Presiding Member

Robert A. Laurie, Commissioner, Associate Member

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Hathaway Burney Ranch FLP
Claude Evans

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1 P R O C E E D I N G S

2 9:00 a.m.

3 PRESIDING MEMBER KEESE: Good morning,
4 ladies and gentlemen, we'll call this meeting to
5 order. I'm Bill Keese, Presiding Member of the
6 Three Mountain Project.

7 On the far left, Bob Laurie, Second
8 Member on this siting case. Our Hearing Officer
9 Ed Bouillon. My Advisor Cynthia Praul. I think
10 we'll dispense with the introduction of all the
11 parties because I believe everybody was here at
12 our last meeting.

13 With that I will hand this over to Mr.
14 Bouillon.

15 HEARING OFFICER BOUILLON: Thank you,
16 Mr. Chairman. We're going to deal today with the
17 remainder of the topics listed in the schedule for
18 March 7, 2000. Specifically, we have a lot of
19 issues that can be taken by stipulation.

20 We also have to deal with the geological
21 resources, visual and socioeconomic issues via
22 live testimony. It's my understanding that
23 everything else can be handled by stipulation,
24 with the exception of noise, and that's going to
25 have to be postponed for lack of witnesses.

1 In addition, one of the leftover things
2 we have from our last hearing is the transmission
3 system engineering. There are some cross-motions
4 on file. One filed by TANC to strike the
5 testimony of Mark Hesters; and one filed by the
6 staff to, I believe, strike the testimony of both
7 of TANC's witnesses, is that correct, Mr. Ratliff?

8 MR. RATLIFF: Yes.

9 HEARING OFFICER BOUILLON: We are not
10 going to argue those motions today. The
11 regulations, I think it's section 1716.5 provides
12 that all the other parties have an opportunity to
13 respond to those motions. That's, I think, a
14 statutory 15-day period, and then the Committee
15 has a 30-day period within which to act on those
16 or to set a hearing on the motions.

17 Once we receive the responses, if any,
18 we'll decide what we're going to do from there.
19 Whether or not to have any argument on the
20 motions.

21 I presume that both motions were served
22 on all of the parties, but I don't know that for
23 sure. I haven't examined the proof of service
24 list. I do know that I spoke to Ann MacLeod
25 yesterday and she had not received either motion.

1 So, Mr. DeCuir, and Mr. Ratliff, if both
2 of those motions -- if each of your motions was
3 not served upon the entire service list, please do
4 so today.

5 MR. ZISCHKE: Our motion should have
6 been served on everybody, so I'll check and make
7 sure.

8 One question regarding the scope of
9 geology today. The motion that was filed was
10 based on that report to put geology over into part
11 two. I had not been under the impression that
12 geology was going to be fully heard today on all
13 the testimony, but instead that we were going to
14 hear testimony on the motion as to whether to put
15 it over to part two based on the Piedmont
16 GeoSciences report, and wanted to clarify that.

17 HEARING OFFICER BOUILLON: No, it's my
18 understanding we're going to hear that issue today
19 in its entirety.

20 Do you have your witnesses here?

21 MR. ZISCHKE: Yes.

22 HEARING OFFICER BOUILLON: Okay. And
23 are you prepared?

24 MR. ZISCHKE: That's fine, I just wanted
25 to clarify.

1 HEARING OFFICER BOUILLON: With that, I
2 want to make just one additional comment on the
3 schedule. There are some other dates set for
4 April 11th and April 12th for the evidentiary
5 hearings on the air and water issues, as well as
6 biological resources and the alternatives.

7 Those, obviously, are going to have to
8 be canceled, and new dates set. No order has yet
9 been issued on that, but each of you can free up
10 your calendar for those two days, as well as for
11 the date for the prehearing conference we had set
12 on those issues.

13 MS. FOX: Hello?

14 HEARING OFFICER BOUILLON: On March
15 23rd, we'll cancel that date, also, and set a new
16 date for a further prehearing conference for when
17 the anticipated reports come out.

18 That will all be done by written order.
19 You should receive that sometime this week.

20 With that, is Roberta here? Our Public
21 Adviser, Roberta Mendonca, was going to make a
22 short report as to her efforts in this matter.
23 There she is, just walked in. Are you ready,
24 Roberta?

25 MS. MENDONCA: Good morning. We're

1 still working out some nuances on the
2 teleconference call, but I believe you'd like to
3 know about my public outreach in the community of
4 Burney, and --

5 HEARING OFFICER BOUILLON: That's
6 correct.

7 MS. MENDONCA: -- like the wind, today.
8 The Public Adviser was in the community of Burney
9 more than six times. We made two visits before we
10 had the first informational hearing. And the
11 outreach in the community involved both individual
12 citizens and organizations.

13 I went to two Chamber of Commerce
14 luncheons, a Lions dinner. I made contact with
15 the Pit River Indian Nation office and made three
16 visits to that office.

17 Basically I believe that we've had an
18 excellent opportunity to become acquainted with
19 the Burney community and reach all of those people
20 that were interested in participating in our
21 process.

22 And if you'd allow me, I'm going to go
23 and ask if the telephone -- if there's anybody on
24 the line.

25 Is there anybody on the conference line?

1 MS. FOX: Yes, I'm on.

2 MS. MENDONCA: Would you mind
3 introducing yourself, please?

4 MS. FOX: My name is Meg Fox.

5 MS. MENDONCA: Meg Fox. Thanks, Meg.
6 Will you let us know when you decide to leave, if
7 you decide to leave?

8 MS. FOX: Okay. It keeps cutting out.
9 I'm only hearing people sporadically.

10 MS. MENDONCA: Okay, we'll try and work
11 on that. Thank you.

12 And that concludes my report.

13 HEARING OFFICER BOUILLON: Very briefly,
14 let's turn first to the issue of geological
15 resources, and my understanding -- before we do
16 that, and while Mr. DeCuir is still here, one of
17 the things that came up during transmission system
18 engineering was the admission of a series of
19 letters which are marked collectively exhibit 53.

20 Those were not admitted into evidence
21 simply because we did not have them here. Those
22 have since been provided to me by Mr. Ratliff.
23 And I'm prepared to admit those into evidence,
24 reopen the record on transmission system
25 engineering for that limited purpose and admit

1 those letters into evidence.

2 But before that I have a question, and
3 this does involve Mr. DeCuir. You might want to
4 come forward.

5 When I first received these four letters
6 they were part of an overall package that had been
7 docketed with the office.

8 MS. FOX: Hello?

9 HEARING OFFICER BOUILLON: Nobody's
10 talking. On March 6th the docket office received
11 a packet which was actually dated March 2nd of
12 this year. It is under a cover sheet from the
13 California ISO to Al McCuen from Peter Mackin.

14 Those four letters that are marked as 53
15 (a) through (d) are attached to that. And also
16 attached to the last letter is a copy of an email
17 message from Peter Mackin to a bunch of names
18 which I do not recognize, Jeff Miller, Armando
19 Perez, Kevin Graves and Zora Lazio. It's some
20 notes of a meeting involving various parties.

21 So this is part of the docketed
22 material, but I don't know if it was actually an
23 attachment to one of the letters or not, and
24 whether any attempt was made to make those email
25 notes a part of exhibit 53.

1 So since this was being offered by Mr.
2 Ratliff, I'll ask for his comments on that first,
3 if you have any.

4 MR. RATLIFF: Well, it was our intent
5 that the attachments included -- they include,
6 most importantly, the draft SMOP, the special
7 mitigation operating procedures, which were the
8 point of discussion at the hearing.

9 HEARING OFFICER BOUILLON: Mr. DeCuir,
10 do you have any comments on that?

11 MR. DeCUIR: Yes, thank you, Mr.
12 Bouillon. I had reviewed the transcript after the
13 hearing and confirmed for myself that Mr. Ratliff
14 had not, when he indicated to the Committee what
15 was included in this package, mentioned the
16 inclusion of what is known as the SMOP.

17 And I had not realized that it had been
18 included because during the hearing he did not
19 have copies available to share with anyone. In
20 fact, I didn't realize it was included until on
21 the afternoon of the 8th when I was reviewing the
22 faxes that had come in during the hearing on the
23 7th, I came across the fax of this package,
24 exhibit 53, which included the SMOP.

25 And while Mr. Ratliff asked questions of

1 several witnesses on the SMOP, I did not
2 appreciate at the time that he intended to move it
3 into evidence.

4 I had also suggested to the Committee
5 that it would be proper to reopen the transmission
6 system engineering portion in order to examine
7 this evidence, in order to -- my words at the
8 hearing, to permit us to have an opportunity to
9 rebut what was said on the issue of the SMOP.

10 The Committee, if the Committee has had
11 an opportunity to look at it, will see that the
12 SMOP has not been approved by PG&E management.
13 The ISO staff --

14 HEARING OFFICER BOUILLON: Oh, you don't
15 need to go into that, Mr. DeCuir.

16 MR. DeCUIR: Well, this is what we're
17 talking about, it's the evidence, Mr. Bouillon.
18 The ISO Staff has disapproved it, said it's got
19 problems.

20 HEARING OFFICER BOUILLON: Excuse me,
21 Mr. DeCuir, we're talking now about whether it's
22 being offered, not whether it's going to be
23 admitted.

24 MR. DeCUIR: Well, I'm talking about
25 what it is so that we can argue about whether it

1 should be admitted.

2 HEARING OFFICER BOUILLON: No, we're not
3 talking about what it is. I've identified what it
4 is, and it's those notes by Mr. Mackin with the
5 attachments on those notes. It doesn't need any
6 further identification. It's been docketed.

7 MR. DeCUIR: Well, for the purpose of
8 arguing whether it ought to be admitted or not,
9 it's proper to talk about what it contains because
10 the staff counsel is offering it for the purpose
11 of proving his claim that the SMOP will solve all
12 problems related to the congestion and reliability
13 concerns that TANC has stated.

14 So, just to make it brief --

15 HEARING OFFICER BOUILLON: Mr. DeCuir,
16 you misunderstand completely what I'm trying to
17 drive at here. I'm trying to simply find out
18 whether it's being offered as an exhibit. Mr.
19 Ratliff says yes. You've given me your
20 understanding from the transcript that it was not
21 one of those documents mentioned during the
22 hearing.

23 The question of whether or not we can
24 take semi-judicial notice of something that's
25 included that's been docketed and is in the file

1 of this case, is not the issue here, nor is the
2 issue what we should do with it.

3 So, do I understand you correctly?
4 You're saying that the email and its attachments
5 on the SMOP were not offered by Mr. Ratliff?

6 MR. DeCUIR: It was not my understanding
7 at the time. I did not understand at the time of
8 hearing that the SMOP was included in this packet.

9 HEARING OFFICER BOUILLON: That's fine.
10 Does the applicant have any comments in that
11 regard?

12 MS. COTTLE: I don't think we have any
13 comments right now.

14 HEARING OFFICER BOUILLON: Excuse me?

15 MS. COTTLE: I don't have any comment
16 right now.

17 HEARING OFFICER BOUILLON: All right.

18 MR. RATLIFF: Commissioners, if I may, I
19 may have been imprecise in offering these. The
20 discussion of all of the exhibits which were
21 marked has to do with the SMOP. The SMOP is an
22 attachment. This is the email correspondence that
23 you mentioned concerning the discussions regarding
24 the SMOP with the ISO. So they explain and
25 confirm the information that we marked as

1 exhibits.

2 It was my intent, and it only makes
3 sense, I think, in any logical way of
4 understanding and interpreting the documents, to
5 include the attached material behind the
6 correspondence that you marked as exhibits.

7 I don't want to, as I think Mr. DeCuir
8 is, engage in argument over the SMOP, but the ISO
9 did not reject the SMOP. In fact, their testimony
10 was that an SMOP very similar to this was one that
11 they expected would be, in fact, put in place.

12 HEARING OFFICER BOUILLON: All right,
13 what the Committee has decided to do in this
14 matter is exhibits 53(a), (b), (c) and (d) will be
15 admitted. Those are the letters, themselves. It
16 is not the cover sheet from Peter Mackin, and it
17 is not any of the attachments on the back of that
18 cover sheet, other than the letters, themselves.

19 The cover sheet and the email notes and
20 the SMOP procedure, or whatever that is, has been
21 docketed and is part of the record in this case.
22 But it is not going to be as a part of exhibit 53.
23 And we're not going to reopen the record for any
24 purpose other than admitting the exhibits as they
25 were offered.

1 I have reviewed the transcript, myself,
2 and I concur with the Committee that, in fact,
3 there was no mention of that email note at that
4 time. So that will be the ruling on that.

5 And we can now proceed to the issue of
6 geological resources.

7 It's my understanding that the Burney
8 Resources Group would like to put this on first
9 because they have a witness that has made enough
10 trips up here.

11 MR. DeCUIR: Can I just make an
12 exception, and then I'll -- because I'm not
13 interested in the rest of the proceedings today,
14 I'll take my leave.

15 I want to make an exception to the
16 Committee of reopening the transmission system
17 engineering portion to admit the evidence that has
18 been admitted --

19 HEARING OFFICER BOUILLON: That's fine.

20 MR. DeCUIR: -- on the ground that the
21 exhibit was not moved into evidence, and the
22 portion of the transmission system engineering
23 portion of these proceedings was closed.

24 And further, that the parties were not
25 given an opportunity to examine this exhibit ahead

1 of time. This was not part of the staff's case in
2 chief.

3 With that exception, and I'd also like
4 to clarify that the SMOP procedures,
5 themselves, --

6 HEARING OFFICER BOUILLON: I don't want
7 to hear about the SMOP. That's not an exhibit in
8 this case.

9 MR. DeCUIR: I wanted to ask that
10 question, to ask it specifically.

11 I thank you very much for your time. I
12 didn't mean to take up undue time.

13 MS. COTTLE: Can I ask one question,
14 please? I just wanted to note that at the last
15 hearing our witness on transmission system
16 engineering, we had intended to move in the
17 portions of the AFC that he was responsible for,
18 and I don't believe that those portions were moved
19 in.

20 And my question is, we have marked the
21 entire AFC as an exhibit on our exhibit list. And
22 if the Committee intends to move the entire AFC
23 into evidence, then that will take care of the
24 portions on transmission system engineering. But
25 I wasn't sure how we were going to handle that and

1 whether we needed to have the portions on
2 transmission system engineering moved in now, if
3 we could.

4 HEARING OFFICER BOUILLON: Customarily,
5 portions of both the AFC and the FSA have been
6 moved in as the witnesses have testified, or the
7 subjects have been completed.

8 It's not required that we do so. If you
9 want to wait until the end and move the whole
10 thing in, except for the limited problem that
11 there may not be the people in attendance who may
12 want to object to certain portions of it, there's
13 nothing wrong with that.

14 COMMISSIONER LAURIE: But I think the
15 question is that the record may be unclear whether
16 or not the request was made to actually admit it.
17 I don't know what the record says. Does the
18 applicant, at this time, desire to seek admission
19 if they had not done so before.

20 If so, I certainly have no objection.

21 HEARING OFFICER BOUILLON: That's fine,
22 is that what you're trying to do?

23 MS. COTTLE: That's what we would like
24 to do, yes. Thank you.

25 HEARING OFFICER BOUILLON: I think for

1 future purposes, as each portion of written
2 testimony is used, whether it's part of the FSA or
3 the AFC or independently submitted testimony, that
4 at the conclusion of that witness' testimony on
5 cross-examination, that it be moved into evidence,
6 or offered into evidence.

7 MS. COTTLE: Okay, we'll do that from
8 now on, thank you.

9 HEARING OFFICER BOUILLON: That portion
10 of the AFC and -- Mr. Tomlinson, was it?

11 MS. COTTLE: Yes, Byron Tomlinson.

12 HEARING OFFICER BOUILLON: -- his
13 testimony will be admitted.

14 MS. COTTLE: Thank you.

15 HEARING OFFICER BOUILLON: All right,
16 now, Ms. Crockett, about five minutes ago you
17 started to say something.

18 MS. CROCKETT: The Burney Resources
19 Group will be pleased to either offer our witness
20 first or at the end, whichever would make for a
21 smoother inflow of information into the record. I
22 will leave that decision up to the Commissioners.

23 HEARING OFFICER BOUILLON: What we're
24 going to do, what the Committee has decided to do
25 is we're going to listen to evidence about that

1 late report. I say late report, it's a 1998
2 report, but nevertheless discovered recently by
3 the Burney Resources Group.

4 Chairman Keese and Commissioner Laurie
5 both told me that this Committee has an obligation
6 to consider every evidence that might bear on this
7 matter.

8 I've read the pleading, they have, too,
9 and the consensus is that we will go ahead, that
10 report will be admitted into evidence once it gets
11 offered. And we'll proceed from there.

12 I understand the applicant is prepared
13 to proceed, so on the topic of geological
14 resources, would the applicant please call their
15 witness. And for the applicant who is going to
16 handle that?

17 MR. ZISCHKE: I'll be handling that,
18 Mike Zischke, for the applicant. And our witness
19 on geology is Don Barrie.
20 Whereupon,

21 DON BARRIE
22 was called as a witness herein, and after first
23 having been duly sworn, was examined and testified
24 as follows:
25 //

1 DIRECT EXAMINATION

2 BY MR. ZISCHKE:

3 Q Good morning. Could you please state
4 your name for the record.

5 A Don Barrie.

6 Q Were your qualifications submitted with
7 Three Mountain Power's prehearing conference
8 statement?

9 A Yes, they were.

10 Q I'd like to ask a few questions to
11 summarize those qualifications. Are you a
12 registered geologist?

13 A Yes, I am.

14 Q And a certified engineering geologist?

15 A Yes, I am.

16 Q How many years of experience do you have
17 in this area of work?

18 A Twelve years of experience.

19 Q And what professional degrees do you
20 have in that area?

21 A I have a bachelor of science degree in
22 geology and a master of science degree in geology.

23 MR. ZISCHKE: Based on Mr. Barrie's
24 statement today, and our prior submission of his
25 qualifications I request that the parties

1 stipulate to the qualification of this witness to
2 testify on the subject matter of his testimony.

3 HEARING OFFICER BOUILLON: That was
4 general agreement, that will be stipulated.

5 BY MR. ZISCHKE:

6 Q Now, I'd like to discuss the two
7 documents of testimony that have been submitted.
8 The first of these is your direct testimony on
9 geology that was submitted by Three Mountain Power
10 entitled, geologic hazards and resources, Donald
11 S. Barrie, and the second document of testimony is
12 the supplemental direct testimony entitled,
13 geologic hazards and resources, evaluation of 1998
14 Piedmont GeoSciences report, Donald S. Barrie,
15 that was submitted with our response to the Burney
16 Resources Group's motion.

17 And I have a couple questions dealing
18 with both of those documents.

19 Did you prepare those documents of
20 testimony?

21 A Yes, I did.

22 Q And are those documents of testimony
23 true and correct to the best of your knowledge?

24 A Yes, they are, to the extent that my
25 second testimony contains new information not

1 included in the AFC analysis in the first
2 testimony.

3 HEARING OFFICER BOUILLON: Excuse me,
4 Mr. Zischke, before we go any further, the portion
5 of his original written testimony, do you know
6 what the exhibit number on that is?

7 MR. ZISCHKE: It was in volume one of
8 two, 17.

9 HEARING OFFICER BOUILLON: With your
10 prehearing conference statement you submitted an
11 exhibit list which had numbers for each individual
12 portion of the testimony.

13 MR. ZISCHKE: Yes.

14 HEARING OFFICER BOUILLON: What number
15 is that?

16 MR. ZISCHKE: It's number 17 on that
17 list.

18 HEARING OFFICER BOUILLON: Okay. And
19 the supplemental testimony, received March 14th,
20 staff, needs a new number, does it not? That's
21 not on your prenumbered list?

22 MR. ZISCHKE: That would be correct.

23 HEARING OFFICER BOUILLON: We will give
24 that, for identification, number 57.

25 All right, you may proceed.

1 MR. ZISCHKE: Thank you.

2 BY MR. ZISCHKE:

3 Q If asked to testify today would your
4 testimony be substantially the same as in those
5 two documents?

6 A Yes, it would.

7 Q Have you reviewed the testimony of John
8 C. Pfeiffer that was submitted by the Burney
9 Resources Group?

10 A Yes, I have.

11 Q In that testimony does Mr. Pfeiffer
12 refer to a report prepared by Piedmont GeoSciences
13 entitled, potential seismic sources for Pit No. 4
14 Dam, Shasta County, California?

15 A Yes, he does.

16 MR. ZISCHKE: I guess I might ask the
17 Hearing Officer if we're going first, I don't know
18 whose -- we're going to be discussing that report.
19 Do we need a number now, or --

20 HEARING OFFICER BOUILLON: I think we
21 should. We can make that number 58, and that is
22 the geological hazards testimony by John C.
23 Pfeiffer, received by the Commission on March
24 16th. It's dated at the top March 13th. And
25 that's exhibit number 58 for identification.

1 MR. ZISCHKE: Okay, and that's Mr.
2 Pfeiffer's testimony, and there's also the study
3 which I don't believe was attached to his
4 testimony, but has been docketed, if I recall
5 correctly.

6 HEARING OFFICER BOUILLON: Let's make
7 that report number 59.

8 MR. ZISCHKE: Okay.

9 BY MR. ZISCHKE:

10 Q Mr. Barrie, Mr. Pfeiffer's testimony,
11 does he refer to some maps that are attached to
12 the Piedmont GeoSciences report?

13 A Yes, he does.

14 Q And have you reviewed that report and
15 the attached maps?

16 A I have, yeah, both.

17 Q On the second page of Mr. Pfeiffer's
18 testimony he refers to two unnamed fault segments
19 as being very close to the site, and he states
20 that one of these unnamed fault segments may
21 actually cross the site.

22 Are you familiar with those statements
23 in Mr. Pfeiffer's testimony?

24 A Yes, I am.

25 Q Can you show the Committee and the

1 parties where those two unnamed fault segments are
2 located?

3 A Yes, I have a rough map or I can
4 describe it, either way.

5 Q Do you have the map entitled quaternary
6 fault map of the Pit River region? Is that the
7 map that shows those two segments?

8 A Yes. Shall I describe it?

9 Q Please.

10 A Okay. There are a couple of short fault
11 segments that occur northeast of the proposed
12 power plant site, the closest of which occurs
13 approximately 2000 feet northeast of the power
14 plant site. It's a relatively short fault
15 segment; it's about 1.6 miles in length.

16 And there's another shorter fault
17 segment just northeast of that, or approximately
18 4700 feet northeast of the site. That shorter
19 fault segment is about a mile in length.

20 And both of these unnamed fault segments
21 again occur on the TL Sawyer map, the quaternary
22 fault map of the Pit River region, and also on the
23 quaternary faults of the Modoc Plateau, that map.

24 Again, both of these are relatively
25 short faults, and both of them occur northeast of

1 the proposed power plant site.

2 Q Do either of those unnamed faults cross
3 the project site?

4 A No, they don't.

5 Q Could you explain for the Committee and
6 the parties how you determined that?

7 A Yeah, I examined the quaternary fault
8 map of the Pit River region, and also the
9 quaternary fault map of the Modoc Plateau. And
10 measured the distance as accurately as I could
11 from a known point on both of those maps.

12 And I then scaled off that distance onto
13 a topographic map, which I brought with me today,
14 that also shows the location of the power plant
15 site.

16 Q Could you describe the topographic map
17 that you're referring to?

18 A Yes. This is essentially it's 1 to
19 24,000 scale, an Alquist-Priolo special study
20 zones map. It's a published map by the California
21 Division of Mines and Mineral Resources.

22 It shows locations of active or
23 potentially active faults in the area. And it's a
24 good base map because it contains very detailed
25 topographic information.

1 So I felt it was a good map to use to
2 plot both the two unnamed faults that we're
3 referring to and the location of the power plant
4 site.

5 Q Was it your conclusion in your
6 supplemental direct testimony that the Rocky Ledge
7 fault is the most important seismic source for the
8 site in terms of the magnitude of seismic shaking?

9 A Yes, it was. This is a relatively long
10 fault in the area. It's approximately 13 to 20
11 kilometers long. One of the longer faults in the
12 area.

13 It's also a very active fault. It's
14 characterized as having holocene activity, or
15 having moved in the last 11,000 years. It's also
16 very near the power plant site, within about 4000
17 feet of the power plant site.

18 And so based on the length of the fault,
19 which in general the longer a fault, the larger
20 the maximum earthquake that can occur on that
21 fault, so based on the length of the fault, based
22 on its proximity to the power plant site, and
23 based on its activity, the fact that it's an
24 active fault, having moved in holocene time, it's
25 my professional opinion that this is really the

1 most important fault in the area with respect to
2 potential seismic sources and design of the
3 project.

4 Q Does anything in Mr. Pfeiffer's
5 testimony change your conclusion regarding the
6 importance of the Rocky Ledge fault?

7 A No, it doesn't.

8 Q Have you reviewed the proposed
9 conditions of certification in the final staff
10 assessment?

11 A Yes, I have.

12 Q And where do those proposed conditions
13 of certification appear in the final staff
14 assessment?

15 A They occur in geology mitigation
16 measures, GEO-1 and GEO-2.

17 Q And have you reviewed the additional
18 condition of certification that Mr. Pfeiffer in
19 his testimony proposes?

20 A Yes, I have.

21 Q And what does his proposed condition
22 require?

23 A Mr. Pfeiffer's proposed condition
24 requires three things. Number one, that the
25 project will be designed in accordance with CBC,

1 or California Building Code chapter 16.

2 Secondly, that the engineering geology
3 report requires, as part of CBC chapter 16, take
4 into account all of the faults shown on the two
5 maps we've been referring to this morning, the
6 quaternary fault map of the Pit River region, and
7 also the quaternary fault map of the Modoc
8 Plateau, both of which are unpublished maps by TL
9 Sawyer.

10 And thirdly, Mr. Pfeiffer stipulates
11 that the calculation of peak ground acceleration
12 at the power plant site should take into account
13 the information presented in the 1998 Piedmont
14 GeoSciences report.

15 Q Under the conditions that were proposed
16 by staff in the final staff assessment, would the
17 first part of that, compliance with the California
18 Building Code, be required under the current
19 conditions?

20 A Yes, it would.

21 Q With respect to the identification of
22 all the faults, what you described as the second
23 part of his proposed condition, would you normally
24 look at and evaluate all of the faults that were
25 listed in his proposed condition?

1 A Yes, in a cursory fashion. I would
2 point out that it's certainly acceptable to use
3 professional experience to look at what the most
4 important seismic sources are in the area, the
5 half dozen or so faults that, you know, based on
6 professional judgment, are the most important
7 seismic sources.

8 Q And is that work that would normally be
9 accomplished as part of preparing the engineering
10 geology report that's called for by the staff's
11 proposed conditions of certification?

12 A Yes, it would.

13 Q In your opinion do staff's proposed
14 conditions of certification address all of the
15 questions and issues that are raised by the
16 Piedmont GeoScience report and Mr. Pfeiffer's
17 testimony?

18 A I believe they do, to the extent that
19 the project must comply with title 24 of the
20 California Code of Regulations, specifically
21 chapter 16, the California Building Code, that
22 requires an evaluation of known active and
23 potentially active faults in the area.

24 And that information, itself, must be
25 accounted for in both the initial and the final

1 engineering geology report. Again, required as
2 part of chapter 16 of the CBC.

3 And it's my opinion, professionally,
4 that that information will be part of the project
5 as a matter of course. It's required.

6 Q In your opinion, based on the proposed
7 conditions of certification and the other
8 information that you've reviewed, will the Three
9 Mountain Power Project comply with applicable
10 laws, ordinances and regulations regarding
11 geologic impacts?

12 A Yes, it will.

13 Q And in your opinion are the proposed
14 conditions of certification in the final staff
15 assessment adequate and appropriate mitigation for
16 geological impacts?

17 A Yes, they are.

18 MR. ZISCHKE: That's all the questions I
19 have. Consistent with your direction, I would
20 move section 6.17 of the application for
21 certification, the chapter of the AFC that deals
22 with geology, into evidence.

23 HEARING OFFICER BOUILLON: Are you
24 moving in his supplementary testimony, as well?

25 MR. ZISCHKE: And move in his

1 supplemental testimony, as well, yes, thank you.

2 HEARING OFFICER BOUILLON: Any

3 objection? It will be admitted.

4 Mr. Ratliff, do you have any questions?

5 MR. RATLIFF: No.

6 HEARING OFFICER BOUILLON: Mr. Wolfe.

7 MR. WOLFE: Just a couple.

8 CROSS-EXAMINATION

9 BY MR. WOLFE:

10 Q Good morning, Mr. Barrie.

11 A Good morning.

12 Q Do you have in front of you a copy of
13 the proposed conditions of certification GEO-1 and
14 GEO-2 from the FSA?

15 A No, I do not.

16 MR. WOLFE: I'd ask that the applicant
17 provide their witness with a copy.

18 (Pause.)

19 BY MR. WOLFE:

20 Q Do you have it in front of you now, Mr.
21 Barrie?

22 A Yes, I do.

23 Q If I can direct your attention to
24 condition GEO-1. Do you agree that the referenced
25 section of the CBC as appendix to chapter 33,

1 particularly section 3309.4, which states that
2 prior to the start of construction the project
3 owner shall assign to the project an engineering
4 geologist certified by the State of California to
5 carry out the duties required by that section?

6 A Yes.

7 Q If you look at condition GEO-2, the
8 first sentence, do you agree it says that the
9 assigned engineering geologist shall carry out the
10 duties required by the 1998 CBC appendix chapter
11 33, section 3309.4 engineered grading requirement?

12 A Yes.

13 Q And section 3318.1, final reports?

14 A Yes.

15 Q Would you agree that the portion, rather
16 the chapter of the CBC that directly addresses
17 seismic safety and design requirements is actually
18 chapter 16?

19 A I would.

20 Q Can you explain then how these two
21 conditions which reference requirements for
22 engineered grading reports would, in your
23 judgment, mitigate all seismic hazards presented
24 by this project?

25 A I would argue that condition 1 of GEO

1 number 2, prepare the engineering geology report,
2 that in my opinion the implication there is that
3 engineering geology report will include all
4 applicable information, also in section 16, as
5 well.

6 Q So, do you see any language in that
7 condition that states that directly?

8 A No, I don't.

9 Q So your conclusion is that by
10 implication the requirement that an engineering
11 geology report be prepared in accordance with
12 section 3318.1, that, for all intents and
13 purposes, would assure full compliance with the
14 seismic design requirements of section 16 --
15 sorry, chapter 16?

16 A Yes.

17 MR. WOLFE: I would ask that the
18 Committee take official notice of chapter 16 in
19 title 24 of the California Code of Regulations
20 which contain the seismic design requirements of
21 the California Building Code.

22 COMMISSIONER LAURIE: Let me interrupt.
23 Is it your point that there should be reference to
24 chapter 16 in these conditions?

25 MR. WOLFE: My point is that it's

1 unclear to us, from the way these conditions are
2 written, that there is --

3 COMMISSIONER LAURIE: Well, then let's
4 address it. Mr. Ratliff, is it staff's position
5 that GEO-1 and 2 should be clarified to add
6 reference to chapter 16?

7 MR. RATLIFF: Well, I guess what I would
8 point out is that elsewhere in our conditions we
9 require satisfaction of all of the conditions of
10 the California Building Code, including chapter
11 16, which has the seismic requirements. And
12 that's a significant chapter in the building code.

13 COMMISSIONER LAURIE: Is there any harm
14 to adding the phrase --

15 MR. RATLIFF: We have no objection to
16 designating it specifically, no.

17 COMMISSIONER LAURIE: Okay.

18 MR. ZISCHKE: And from the applicant's
19 perspective, we will comply with chapter 16 and
20 have no objection to specifying that.

21 MR. WOLFE: To clarify that this isn't
22 just a nitpicky thing, the provisions of chapter
23 16 specifically state that seismic hazard
24 characteristics are more than just a function of
25 seismic zone, and more than just a function of how

1 close an active fault is.

2 You have to take into account soil
3 profile characteristics and the structures
4 importance factor --

5 COMMISSIONER LAURIE: No need to
6 apologize, it's not nitpicky, but we've taken care
7 of it.

8 MR. WOLFE: Okay.

9 COMMISSIONER LAURIE: Or I anticipate
10 that the verbiage of GEO-1 and 2 will be clarified
11 in order to make reference to chapter 16, that's
12 what I've heard.

13 MR. WOLFE: I have no more questions.

14 HEARING OFFICER BOUILLON: Ms. Crockett.

15 CROSS-EXAMINATION

16 BY MS. CROCKETT:

17 Q Good morning, Mr. Barrie.

18 A 'Morning.

19 Q A few questions. Initially in your
20 filed report, in your original testimony on page
21 2, you state that no active faults are known to
22 cross the proposed power plant facility footprint,
23 correct?

24 A That's correct.

25 Q And on page 3, based on a review of the

1 seismic literature and upon published seismic and
2 attenuation relationships, it is estimated that
3 ground acceleration at the proposed power plant
4 site from a maximum credible earthquake, MCE,
5 would be approximately .42 G's, where G represents
6 acceleration due to gravity, correct?

7 A Correct.

8 Q When the Piedmont GeoScience report was
9 put forth you went to these quaternary -- am I
10 saying that correctly?

11 A Quaternary.

12 Q -- quaternary maps. Had you looked at
13 them prior in your original testimony?

14 A I had not.

15 Q So without the GeoScience report you
16 would not have known about these faults, is that
17 correct?

18 A Correct.

19 Q Is it also correct that in the initial
20 report the closest fault that's listed is Rocky
21 Ledge, followed by the Susanville number 2 fault
22 at six miles?

23 A That's correct.

24 Q And as Mr. Pfeiffer identified, he has
25 brought in five more faults within an eight-mile

1 radius of the plant?

2 A Correct.

3 Q With sufficient magnitudes to be, from
4 my point of view, that need to be addressed and
5 would concern a credible person who wants to do a
6 good job, is that correct?

7 A Yes.

8 Q So this information is relevant?

9 A Yes.

10 Q Have you been to the plant site?

11 A No, I haven't.

12 Q Have you been able to -- if you haven't
13 been to the plant site, you've not been able to
14 evaluate the ground for activity, is that correct?
15 Earth cover, so on and so forth?

16 A No, that's not correct.

17 Q Okay. Could you tell me?

18 A Sure. My evaluation has to do with
19 looking at published and unpublished data in
20 regards to both regional information on active
21 faults, and also site conditions.

22 We do know from the published and
23 unpublished literature that the site is situated
24 on pleistocene volcanic deposits and has
25 relatively shallow soils.

1 And we also know that the site is not
2 characterized by shallow groundwater within a few
3 feet of the surface.

4 And so based on that information I felt
5 it was appropriate to make the evaluations that I
6 did in both my testimony and the AFC analysis.

7 Q So what you did -- let me paraphrase
8 this and see if I've got this correctly -- to your
9 own personal knowledge of this site you don't have
10 any, but you have read published and unpublished
11 documentation about the site? But you have not
12 been to the site to confirm that these are correct
13 or incorrect?

14 A Could you clarify a little bit what you
15 mean by personal knowledge?

16 Q Actually being at the site to confirm or
17 deny the reports that you have and had in front of
18 you, I would assume you take them with you, and
19 then review the site, walk the site? I'm not sure
20 what geologists would do.

21 But have you personally confirmed that
22 these reports are accurate or inaccurate to the
23 site? That's what I'm referring to.

24 A Well, I should say that a former member
25 of the company that I work for did visit the site

1 on several occasions. And she and I have had a
2 number of, you know, very close discussions.

3 And I also peer reviewed the document,
4 was instrumental in putting it together. But to
5 address your question, I would say no, I don't
6 have personal, meaning experiential, knowledge of
7 the site conditions in the sense that I've walked
8 the site and have personally confirmed all the
9 published and unpublished information.

10 Q You mentioned groundwater. You say
11 there's no shallow groundwater. What do you mean
12 by shallow?

13 A Within a few feet of the surface.

14 Q Are you aware that Shasta County --
15 excuse me -- the United States Department of
16 Agriculture labels that area as four months of the
17 year having groundwater within 18 inches of the
18 surface?

19 A I was not aware of that.

20 Q So there's new information out there?

21 A Yes.

22 MR. ZISCHKE: I don't know that that,
23 whatever you were referring to there is in
24 evidence. I mean you've mentioned a document that
25 I'm not sure relates to the geologic testimony and

1 would object on that basis. But I don't think
2 it's in evidence before the Committee.

3 MS. CROCKETT: I have the USDA soil
4 survey map. It may not be with me currently, so
5 what would you like me to do about this? Not
6 refer to it?

7 MR. ZISCHKE: Well, we've had one late
8 motion already. I'd object. I mean we --

9 HEARING OFFICER BOUILLON: Let me
10 interrupt. She asked a question to a witness
11 about whether he was familiar with a certain
12 alleged fact in some report. He said no.

13 She's not introducing that report. She
14 doesn't have to introduce that report. The
15 question is not evidence.

16 Go ahead.

17 MS. CROCKETT: Thank you.

18 BY MS. CROCKETT:

19 Q About the step-over fault, Mr. Barrie,
20 what would activate that step-over fault? Could
21 it be activated? What is its relationship with
22 the Rocky Ledge fault?

23 A I don't feel qualified to answer that
24 question. Let me perhaps clarify that. I can
25 certainly speculate on a couple of possibilities,

1 as Mr. Pfeiffer did in his testimony.

2 But without a very detailed
3 investigation involving a greater level than
4 anyone has done so far, I would have to say I'm
5 not qualified to answer that question.

6 Q So, without the specifics of what Mr.
7 Pfeiffer mentioned in his testimony, we probably
8 wouldn't really know what the interaction between
9 the step-over fault and the Rocky Ledge fault
10 would be, is that correct?

11 A That's correct.

12 MS. CROCKETT: Thank you. No more
13 questions.

14 HEARING OFFICER BOUILLON: Mr. Evans, do
15 you have any questions?

16 MR. EVANS: No.

17 EXAMINATION

18 BY COMMISSIONER LAURIE:

19 Q Sir, referring to the Burney Group's
20 proposed additional conditions of certification,
21 what's your understanding of what the third
22 condition was? You indicated that you understood
23 there were three additional conditions being
24 requested.

25 A I'm sorry, could you clarify that a

1 little bit?

2 Q You earlier testified that it was your
3 understanding that the Burney Group was seeking
4 three additional conditions of certification, is
5 my understanding correct?

6 A Yes. Perhaps it's semantic. I notice
7 in Mr. Pfeiffer's testimony he refers to it as the
8 following condition being one. He lists GEO-4.
9 And what I did is sort of broke that up into three
10 separate parts.

11 Q Okay, and what was your third part that
12 you had mentioned?

13 A Oh, that the information contained in
14 the 1998 Piedmont GeoSciences report being used to
15 evaluate peak ground acceleration of the site.

16 Q And then did you further testify that it
17 was your view that that concern was already
18 addressed in the existing conditions?

19 A Yes.

20 Q And could you make reference to the
21 existing conditions and indicate where therein
22 that point would have been contained?

23 A I would argue in GEO-2 of the conditions
24 for certification, is that -- am I on the right
25 track? Is that what you're referring to? Okay.

1 Item number 1, preparation of an
2 engineering geology report. In my opinion, for
3 the sake of completeness, that report would need
4 to include all relevant and applicable
5 information. And now that this 1998 report, is a
6 matter of public record, has been found, it would
7 certainly include the information contained in
8 that report.

9 Q Thank you.

10 COMMISSIONER LAURIE: Mr. Hearing
11 Officer, a question of the applicant. This
12 witness made use of a map that I think has not
13 been moved into evidence. Is it your intent to so
14 do that?

15 MR. ZISCHKE: I believe that the map,
16 the topographic map in question is part of chapter
17 6.17 of the application. And it's labeled in the
18 application for certification as figure 6.17-5.

19 COMMISSIONER LAURIE: Is that your
20 understanding, Mr. Bouillon?

21 HEARING OFFICER BOUILLON: I believe it
22 is. Let's ask the witness just to be sure.

23 MR. BARRIE: That's correct.

24 MR. ZISCHKE: And I have some questions
25 on redirect if the other questions are --

1 HEARING OFFICER BOUILLON: One second.

2 Go ahead.

3 REDIRECT EXAMINATION

4 BY MR. ZISCHKE:

5 Q In preparing the final geology report
6 that is called for, would all of the faults and
7 information that are evaluated in the Piedmont
8 GeoSciences report be considered in compiling that
9 final geology report?

10 A In my opinion they would, yes.

11 Q You also indicated, I believe, in your
12 testimony that while you did not personally visit
13 the site, someone from your firm did visit the
14 site?

15 A Yes.

16 Q And you also indicated that in addition
17 to the site visit, that earthquake maps such as
18 the map of earthquake fault zones that shows the
19 Alquist-Priolo zones were reviewed in preparing
20 the analysis in the application for certification.

21 Is it standard practice to review those
22 sorts of faults maps in preparing a geologic
23 analysis?

24 A Yes, it is.

25 MR. ZISCHKE: I have no further

1 questions, thank you.

2 HEARING OFFICER BOUILLON: Mr. Ratliff?

3 MR. RATLIFF: No.

4 HEARING OFFICER BOUILLON: Mr. Wolfe?

5 MR. WOLFE: No.

6 HEARING OFFICER BOUILLON: Ms. Crockett,
7 do you have any recross on the topics that have
8 just been testified to?

9 MS. CROCKETT: I may. Could I reserve
10 that possibly for later, or must I complete my
11 questioning of the witness now?

12 HEARING OFFICER BOUILLON: We're
13 prepared to excuse this witness if you don't have
14 any questions.

15 MS. CROCKETT: Okay. Let me ask this
16 question, thank you.

17 RECROSS-EXAMINATION

18 BY MS. CROCKETT:

19 Q Mr. Barrie, as Mr. Zischke had just
20 stated that all the data would be reviewed, but
21 there is no stipulation of specific data to be
22 reviewed, is that correct? Other than what's
23 mentioned in the AFC?

24 A That's correct.

25 Q So without the stipulation or an

1 addition to requirements of certification --
2 conditions of certification, there is actually no
3 guarantee that this material will be reviewed?

4 A Well, I would say yes, there's no
5 guarantee. I would also add that any competent
6 engineering geologist would be required ethically
7 and by his or her profession to take this
8 information into account.

9 Q And for reassurance Mr. Pfeiffer agrees
10 with you, I'm not quite so trusting. Does it
11 place an undue burden on the engineering geologist
12 to have this data specified to be reviewed?

13 A I apologize, I'm not quite sure what
14 you're getting at.

15 Q To add these conditions of certification
16 that Mr. Pfeiffer has requested in his testimony,
17 in your opinion does this place an undue burden on
18 the engineering geologist if he's already going to
19 review this?

20 A No.

21 Q So in actuality just to go ahead and
22 specify that these do need to be reviewed doesn't
23 in any way place more burden on the engineering
24 geologist?

25 A No, it does not. In my opinion it

1 doesn't necessarily add anything, either.

2 Q But it could be a redundant safety
3 measure --

4 HEARING OFFICER BOUILLON: Ms. Crockett,
5 I think you've made your point with regard to
6 that.

7 MS. CROCKETT: Okay, thank you.

8 HEARING OFFICER BOUILLON: Do you have
9 any other questions?

10 MS. CROCKETT: That's my final question.

11 MR. ZISCHKE: May I ask one further
12 question of redirect?

13 HEARING OFFICER BOUILLON: If it is
14 about Ms. Crockett's questions.

15 MR. ZISCHKE: Well, I --

16 HEARING OFFICER BOUILLON: Because
17 that's the only recross.

18 FURTHER REDIRECT EXAMINATION

19 BY MR. ZISCHKE:

20 Q In response to those questions is this
21 Piedmont GeoSciences report now known such that it
22 would be considered in the final geology report?

23 A Yes, it is.

24 MR. ZISCHKE: Thank you.

25 HEARING OFFICER BOUILLON: The witness

1 is excused.

2 Mr. Ratliff.

3 MR. RATLIFF: Yes, the staff has a
4 witness in geological engineering, geological
5 resources, but we also have a witness that we
6 brought thinking perhaps we weren't sure what the
7 scope of the inquiry was. So we brought a witness
8 in facility design, as well.

9 We think although it's principally an
10 issue of geology, if you wish we can have the two
11 testify as a panel and have any questions
12 addressed to either or both of these witnesses.
13 But certainly that determination is yours.

14 Do you want to have both the facility
15 design witness and the geological and
16 paleontological witnesses testify today?

17 HEARING OFFICER BOUILLON: Yes, we
18 would. Have them testify as a panel.

19 MR. RATLIFF: The staff witnesses then
20 will be Steve Baker and Robert Anderson. Steve
21 Baker is the facility design witness, and Robert
22 Anderson is the geological and paleontological
23 resources witness.

24 Whereupon,

25 ROBERT ANDERSON and STEVE BAKER

1 were called as witnesses herein, and after first
2 having been duly sworn, were examined and
3 testified as follows:

4 MR. RATLIFF: Commissioners, what I
5 would like to do is begin with the geological and
6 paleontological resources witness, and have him
7 testify first, and then have Mr. Baker testify
8 second, if that's acceptable.

9 HEARING OFFICER BOUILLON: That's fine.

10 MR. RATLIFF: Okay.

11 DIRECT EXAMINATION

12 BY MR. RATLIFF:

13 Q Mr. Anderson, did you prepare that
14 portion of the staff FSA titled geological and
15 paleontological resources?

16 A Yes, I did.

17 Q Is that testimony true and correct to
18 the best of your knowledge and belief?

19 A I have an errata to introduce; on page
20 293 of the FSA there's a typographical error on
21 line three. Should be table 6-17-1 instead of 6-
22 17-11. But other than that, that's it.

23 Q Would you summarize your position with
24 the staff concerning the topic that you have
25 prepared the testimony for today? What is your

1 position with the staff?

2 A I'm an associate engineering geologist
3 with the engineering office of the California
4 Energy Commission's Energy Facility Siting and
5 Environmental Protection Division. And in that
6 role I review siting cases relative to geological
7 resources, geological hazards, paleontological
8 resources and surface water hydrology issues.

9 And within our office I also am the
10 contract manager for contracts regarding electric
11 systems seismic safety and reliability contracts
12 for our PIER program.

13 Q Are you a registered geologist?

14 A Yes, I am.

15 Q And are you a certified engineering
16 geologist?

17 A Yes, I am.

18 Q Can you summarize your testimony briefly
19 with whatever specific detail you think necessary,
20 given the circumstances.

21 A Focusing on the issue of faulting and
22 seismicity, to keep this relatively brief, I have
23 been looking in the Burney area, was up at the
24 site this summer. Took a look at the site, walked
25 the site, drove the site for the main power plant.

1 And didn't see any faults in the
2 surface. There's no known faults that are
3 published to cross the surface of the proposed
4 power plant footprint.

5 Have been reviewed, the report by
6 Piedmont GeoSciences, the supplement the FSA, as
7 it came in very very late into the process of
8 going through our hearing process for this
9 particular site.

10 And judged that the Piedmont GeoSciences
11 report looked like it was fairly well written and
12 reasonable. With that being said, also looked at
13 the requirements of the Uniform Building Code,
14 California Building Code with respect to faulting
15 and seismicity for a power plant site. And in
16 particular the minimum requirements for such a
17 proposed project.

18 And in that case we have the 10
19 percent -- the 50 year -- a 10 percent chance of
20 an earthquake occurring, 50-year interval, which
21 puts it at about a unity of about 475 years. This
22 is a lower type of earthquake ground motion than
23 the maximum credible earthquake, actually proposed
24 by the applicant. So the applicant's position is
25 more conservative from an engineering perspective

1 and a geology perspective than was actually
2 required under the UBC, CBC.

3 And after looking at the Piedmont report
4 with what we had known before, and also looking at
5 the fault evaluation report by Willis of the
6 California Division of Mines and Geology 1991,
7 which helped set up the Alquist-Priolo zone map
8 that was mentioned earlier, that there appears to
9 be no faults that would continue through the site.

10 And, as such, that our conditions would
11 stand, GEO-1 and GEO-2. And that the practice
12 under chapter 33 of the Uniform Building Code and
13 the California Building Code would include chapter
14 16 requirements, as well.

15 Q Are the conditions in your testimony
16 that would apply to design of this project
17 sufficient in your view to protect -- to make
18 this -- are they adequate to provide a sufficient
19 design in light of the Rocky Ledge fault?

20 A We're looking at geological hazard
21 versus the geological risk here. And what this
22 is, this would allow the engineer of record for
23 the final design to be able to have information
24 that they could develop design criteria with
25 respect to seismicity.

1 So it's adequate to that point. And
2 then it's up to the engineer of record to develop
3 time histories and other materials that are
4 germane to the actual final seismic design for the
5 final design of the plant which comes after
6 licensing.

7 Q Have you read Mr. Pfeiffer's testimony?

8 A Yes, I have.

9 Q Does that change the conclusions in your
10 testimony in any way?

11 A No, it doesn't.

12 Q Why does it not?

13 A Basically what we're looking at is
14 information that has fine-tuned what we're seeing
15 in the area, but the overall picture of whether or
16 not this site is buildable for a thermal power
17 plant, that is what I was looking at the basic
18 question in the end.

19 In my opinion, it's yes, the site is
20 buildable. And it just happens to be when we go
21 through the final engineering, required
22 engineering geology report for the site, and the
23 geologic report still to come, which may develop
24 additional information, may not develop additional
25 information, that is where the design criteria for

1 final design for the plant will come from. And
2 not in the preliminary geologic information that
3 we have.

4 Q Thank you.

5 MR. RATLIFF: I would like at this time
6 to continue with Mr. Baker.

7 DIRECT EXAMINATION

8 BY MR. RATLIFF:

9 Q Mr. Baker, you prepared the staff
10 testimony in the final staff assessment titled
11 facility design, is that correct?

12 A I prepared a portion of it and the
13 entirety of it was prepared under my direction.

14 Q And could you explain your position with
15 the staff, please?

16 A The subject area of facility design is
17 examined for the purpose of assuring that the
18 applicant is aware of the applicable laws,
19 ordinances, regulations and standards for the
20 design and construction of the facility.

21 And also it's a mechanism for staff to
22 create a monitoring program through our conditions
23 of certification so that we can insure that, in
24 fact, these applicable LORS are complied with
25 during the design and construction of the project.

1 Q And, again, Mr. Baker, could you
2 describe briefly your position with the staff?

3 A I'm the senior technical lead person for
4 the facility design unit of the engineering office
5 of the siting division. I prepare testimony on
6 power plant efficiency and reliability, on noise.
7 I prepare a portion of the facility design
8 testimony, and I supervise the preparation of all
9 of those areas plus geology, paleontology and
10 hazard materials handling.

11 Q You are a registered engineer, is that
12 correct?

13 A Yes, sir, registered as a mechanical
14 engineer in California.

15 Q Thank you. You have read Mr. Pfeiffer's
16 testimony?

17 A Yes, I have.

18 Q Does it change the conclusions of your
19 testimony in any way?

20 A No, it does not.

21 Q Can you explain briefly why?

22 A I consulted with my geologist, Mr.
23 Anderson, and he explained to me why Mr.
24 Pfeiffer's testimony does not change any of the
25 design tenets of this project. Why Mr. Pfeiffer's

1 testimony will not require that the plant be
2 designed any more stringently than would have been
3 the case without that testimony.

4 Based on his evaluation from the
5 standpoint of geologist, and based on my
6 understanding of the building code and other
7 applicable LORS, I agree, and I believe that Mr.
8 Pfeiffer's testimony, while interesting and
9 germane, makes no difference in the staff's
10 recommendations.

11 Q Do the requirements in facility design
12 require building the power plant to comply with
13 all the provisions of the California Building
14 Code?

15 A Yes, our condition General-1 requires
16 that the project be designed to this California
17 Building Code, which means the entire code is
18 applicable. That includes section 16.

19 Q Thank you.

20 MR. RATLIFF: I have no other questions
21 for these witnesses. They're available for cross-
22 examination.

23 HEARING OFFICER BOUILLON: Mr. Zischke.

24 MR. ZISCHKE: No questions, thank you.

25 HEARING OFFICER BOUILLON: Mr. Wolfe.

1 MR. WOLFE: No questions, assuming we
2 remain in agreement that either or both of the
3 geology conditions are going to reflect the
4 statement which may -- and the witnesses can be
5 redundant, but I think it would be helpful to us
6 that this project will be built in accordance with
7 chapter 16 specifically of the CBC.

8 MR. RATLIFF: Staff has no objection to
9 that.

10 HEARING OFFICER BOUILLON: Ms. Crockett.

11 MS. CROCKETT: Thank you, just a couple
12 of quick questions.

13 CROSS-EXAMINATION

14 BY MS. CROCKETT:

15 Q Mr. Anderson, --

16 A Yes, ma'am.

17 Q -- when you were walking across the
18 property last summer did you notice anything to
19 indicate that there was a fault close by? Did you
20 go between the project site and Rocky Mountain,
21 the Rocky Mountain Ledge fault, or did you stay
22 specifically on the plant site?

23 A We stayed within the confines in general
24 of the plant site except for when we went off on a
25 surface road reconnaissance, if you will, of the

1 area, which included a driving on -- roads, and a
2 couple of the more improved dirt roads in the
3 vicinity to the north and to the east, which would
4 include the area within the confines of the Rocky
5 Ledge fault. Also, the 299 corridor.

6 Q I'm a novice, so you're going to have to
7 explain this to me. As a geologist, when you're
8 walking around looking, can you actually see a
9 fault?

10 A It depends on the type of fault, and it
11 depends on where the fault is actually located
12 within a site. Sometimes you can. Sometimes what
13 you see is what's called a lineation. And the
14 lineation, itself, could not necessarily be a
15 fault, but sometimes is indicative of a fault.

16 An aerial photo review of the site, and
17 also of walking the site this summer, didn't
18 happen to pick up on any lineations that would
19 warrant investigation for -- fault investigation
20 for that particular proposed power plant
21 footprint. Didn't see anything out there that
22 would warrant that, no.

23 Q Did your aerial photographs pick up
24 these unnamed step faults?

25 A We saw a lineation 2000 feet to the

1 north-northeast, but that doesn't necessarily mean
2 it's a fault.

3 Q Okay, I am not clear on this
4 terminology, this is new to me. What could
5 possibly be the difference between a lineation --
6 that's the indication, is that correct, which you
7 said the lineation may be a visual indication of a
8 fault?

9 A Sometimes.

10 Q Sometimes. So, you really had no
11 indication or any concern that you needed to delve
12 any further into the site situation for seismic
13 hazards and safety?

14 A We look up lengths of lineations,
15 patterns of lineations relative to the soil. The
16 area that's west of the Hat Creek Fault Zone is
17 considered fairly active seismically. What we're
18 looking at is this particular area doesn't warrant
19 anything of length. And length is directly
20 related through several different, well-
21 established relationships as to a possible size
22 for magnitude earthquake.

23 Which then is related to ground
24 accelerations which an engineer would use for
25 designing a plant.

1 Turned out to be that these are very
2 small lineations, and as such, even if they were
3 faults, aren't inclined to generate earthquakes of
4 significance.

5 There have been reported earthquakes in
6 the area in the magnitude 4 to 4.5 range
7 historically. But those are not of the design
8 level events that are typically taken into
9 consideration.

10 So, yes, we have looked at it. And,
11 yes, we are aware of what's in the area. The
12 lineations, themselves, didn't warrant any further
13 continued looking at them at that time. And I
14 don't think that they do at this time.

15 Q You stated on page 293 of your testimony
16 the potential of surface rupture on a fault of the
17 power plant footprint is considered to be very low
18 since no faults are known to cross the proposed
19 power plant location.

20 Do you still feel comfortable with that
21 statement?

22 A Yes.

23 Q You feel there's absolutely no chance of
24 a ground surface rupture?

25 A I didn't say that. In geology you don't

1 use words like absolutely.

2 Q I can understand. So to include these
3 specific requirements that Mr. Pfeiffer is asking
4 for safety's sake, even though you feel they're
5 redundant, would they place a hardship on the
6 staff?

7 A On me? No.

8 Q On any, on the design, on the
9 engineering geologist for the applicant?

10 A The applicant's engineer? No.

11 MS. CROCKETT: Thank you, no more
12 questions.

13 HEARING OFFICER BOUILLON: Mr. Evans.
14 Any re --

15 EXAMINATION

16 BY COMMISSIONER LAURIE:

17 Q Mr. Anderson, applicant's witness
18 testified that in his opinion all of the requested
19 items brought forth in Mr. Pfeiffer's report were
20 already included in GEO-1 and 2. Do you share
21 that view?

22 A Yes.

23 Q Thank you.

24 HEARING OFFICER BOUILLON: Mr. Ratliff,
25 do you have any redirect?

1 MR. RATLIFF: No.

2 HEARING OFFICER BOUILLON: I'm prepared
3 to excuse the witness. Do you want to offer --

4 MR. RATLIFF: Yes, I would like to move
5 the FSA sections for both Mr. Baker in facility
6 design, and Mr. Anderson in geological and
7 paleontological resources into evidence, please.

8 HEARING OFFICER BOUILLON: As well as
9 their qualifications?

10 MR. RATLIFF: As well.

11 HEARING OFFICER BOUILLON: Any
12 objection?

13 They will be entered into evidence. The
14 witnesses are excused, thank you.

15 We'll take a short break, about 10
16 minutes. We'll come back here at 25 till by that
17 clock.

18 (Brief recess.)

19 HEARING OFFICER BOUILLON: Back on the
20 record. First of all, let me make a general
21 comment. One person, Ms. Fox, who is on the
22 teleconference, is having trouble hearing. We've
23 made some adjustments to where everything is for
24 the speakerphone. But I'd also like to remind
25 each of the counsel to have their witnesses speak

1 up as loudly as possible in an effort to be heard.

2 And with that, Ms. Crockett, are you
3 ready to call Mr. Pfeiffer?

4 MS. CROCKETT: Thank you. Mr. Pfeiffer.
5 Whereupon,

6 JOHN PFEIFFER
7 was called as a witness herein, and after first
8 having been duly sworn, was examined and testified
9 as follows:

10 DIRECT EXAMINATION

11 BY MS. CROCKETT:

12 Q Thank you. Mr. Pfeiffer, were your
13 qualifications listed in your prehearing
14 conference statement?

15 A Yes, they were.

16 Q Is the testimony that we're reviewing
17 now your testimony?

18 A Yes, it is.

19 Q Do you have any changes to this
20 testimony?

21 A Only one typographic error, the
22 condition of certification that I listed at the
23 end of GEO-4 I should have listed as GEO-3.

24 Q Thank you. Mr. Pfeiffer, would you give
25 the Commissioners and those present a brief

1 summary of your testimony?

2 A Yes. My testimony concerns the
3 differences between the testimony and the Three
4 Mountain Power documents that have been presented
5 to date in comparison to the information that I
6 encountered in the Piedmont GeoSciences report.

7 Q Can you list some of those differences?

8 A Yes. They've largely been identified in
9 the testimony already. To go back over one of the
10 differences was a higher magnitude potential
11 earthquake on the Rocky Ledge fault; two unnamed
12 fault segments in closer proximity to the Three
13 Mountain Power Plant site; and several other
14 potential seismic sources listed in the Burney
15 Valley area.

16 Q In Mr. Anderson's testimony about the
17 lineation are we -- this is an opinion from you or
18 a supposition, are we talking about the same area,
19 the lineation and the proposed step fault that is
20 mentioned in the PG&E GeoScience?

21 A I believe we are. We're talking about
22 something northeast, slightly northeast of the
23 project site.

24 Q So in reality this area is still pretty
25 vague?

1 A This area, do you mean pertaining to
2 those fault segments --

3 Q The fault segments or the lineations, no
4 one has really specifically -- has them clearly
5 defined?

6 A It does seem vague to me. It seems to
7 me that more information is needed, perhaps from
8 the person who mapped those faults, because it
9 does seem vague. Those who have been to the site
10 did not see evidence of those, and yet Mr. Sawyer,
11 in his report, did see evidence to warrant mapping
12 it. So, it does seem that there's some vagueness
13 that should be clarified where exactly those fault
14 segments are in relation to the site.

15 Q Are you comfortable with prior testimony
16 that states emphatically that these fault segments
17 do not cross the footprint of the plant site?

18 A I would be -- I guess my answer is I'm
19 not entirely comfortable with that due to the
20 vagueness, due to the fact that the scale of Mr.
21 Sawyer's maps it would be difficult to determine
22 exactly. And I suspect at the site, itself,
23 there's been substantial earth movement. So, no,
24 I'm not entirely comfortable with that.

25 Q The applicant has stated that this

1 report does not change any of their conclusions
2 regarding geological hazards, and that a seismic
3 zone 3 is the correct zone to design this plant
4 for.

5 Do you think seismic zone 3 is the
6 correct zone designation for the plant design?

7 A Well, I'd have to say it's not my place
8 to determine that. The concern that it raises in
9 my mind is that if the Piedmont report presents
10 additional information on the seismic character of
11 the area, and on the seismic hazards that are
12 present there, and it's mainly my concern that
13 that information be taken into account for public
14 safety's sake to insure that either it is within
15 zone 3 or that additional measures need to be
16 taken.

17 Q You had referred in your testimony that
18 you had looked at the AFC and the final staff
19 assessment, the prior testimony all feels that
20 GEO-1 and GEO-2 would cover this. In your review
21 of that did you see anything specific that would
22 automatically require the engineering geologist to
23 refer to section 16 of the building code?

24 A No, I did not.

25 Q Does this concern you?

1 A Well, with the prior testimony to date,
2 several people have stated emphatically that
3 section 16 is very definitely a part of that. And
4 that puts me at -- my main concern at this point
5 is the information in the Piedmont report is
6 incorporated into the engineering geologist's
7 report.

8 Q One other final question. Do you know
9 the difference in peak ground acceleration between
10 what was testified and what the revised testimony
11 then indicated, and what was your calculation on
12 the difference on that? It went from a .42 to a
13 .56 G.

14 A It was about a 25 percent increase in
15 the ground acceleration at the site.

16 Q Is that considered substantial in
17 designing anything, a 25 percent difference in
18 calculations?

19 A Well, I think to say that it's
20 significant or not I think that gets into the
21 engineering aspects that are beyond my
22 qualifications. It seems significant to me.

23 Q And so for safety's sake you would like
24 all of this to be specifically denoted to be
25 included so that these calculations are reviewed?

1 A Yes, I would like to see that.

2 Q Thank you.

3 MS. CROCKETT: I will open it for
4 questions.

5 HEARING OFFICER BOUILLON: Before we
6 begin, Mr. Zischke, I'd like to ask a question.

7 EXAMINATION

8 BY HEARING OFFICER BOUILLON:

9 Q The report which you've referred to as
10 the Piedmont GeoSciences report, there's also
11 these two quaternary fault maps with an
12 explanation of them that seems to be a separate
13 document. Is that a part of the report?

14 A I've been interpreting that as part of
15 the report, and I'm not sure if that's correct or
16 not. So, for my purposes in reference I've been
17 including that as part of the report.

18 HEARING OFFICER BOUILLON: So that
19 everyone's clear on this, the rest of us will do
20 that also, although they don't seem to have a
21 staple through the whole package. The explanation
22 for quaternary fault map of the Pit River area to
23 which is attached two quaternary fault maps will
24 be deemed, for purposes of this hearing, a part of
25 the Piedmont GeoSciences report, which has been

1 marked for identification as exhibit 59.

2 Mr. Zischke, cross-examination?

3 MR. ZISCHKE: Yes, just a few questions,
4 Mr. Pfeiffer.

5 CROSS-EXAMINATION

6 BY MR. ZISCHKE:

7 Q Do you live in Burney?

8 A I live in Castle, just east of Burney.

9 Q And are you a member of the Burney
10 Resources Group?

11 A Yes, I am.

12 Q In your testimony I believe you
13 indicated that the Piedmont GeoScience report was
14 not generally known. Do you still believe the
15 report is not known, now having been introduced
16 into testimony and discussed among the various
17 witnesses today?

18 A I would say that within these
19 proceedings it is known.

20 Q There's been some reference in the prior
21 testimony to a step fault or a step-over fault,
22 and I believe you refer in your testimony to a
23 possible step-over fault.

24 That reference is to the two unnamed
25 faults in the Piedmont GeoSciences report, is that

1 correct? And those two unnamed segments are
2 mapped in the first of the attached map, is that
3 right?

4 A Yes. I believe they're shown on both
5 attached maps.

6 Q Okay. Are those two unnamed fault
7 segments located with any less precision than the
8 other faults that are mapped on the attached maps?

9 A I couldn't say having not prepared the
10 maps.

11 MR. ZISCHKE: Thank you, no further
12 questions.

13 HEARING OFFICER BOUILLON: Mr. Ratliff.

14 MR. RATLIFF: Just a couple questions.

15 CROSS-EXAMINATION

16 BY MR. RATLIFF:

17 Q Hello, Mr. Pfeiffer.

18 A Good morning.

19 Q I wanted to ask you, is there anything
20 in your written testimony that indicates that the
21 proposed plant site is underlain by an active
22 fault?

23 A I think in my testimony I made the
24 statement that perhaps one of those two unnamed
25 fault segments may cross the power plant site.

1 Q So, do you believe that there is an
2 active fault underneath the project plant site?

3 A I believe it's in that area. From the
4 map, from the scale of the map I could not tell
5 for sure. It seems -- it shows the fault segment
6 just east of the railroad alignment of the, I
7 think it's the McLeod River Railroad, which the
8 project site, as I understand it, is also just
9 east of the railroad alignment and just north of
10 highway 299.

11 Q And you're referring to one of the
12 quaternary maps that are part of the exhibit,
13 or --

14 A Yes.

15 Q Okay. And what is the basis for your
16 belief that the fault is actually under the power
17 plant site?

18 A The basis is that on that quaternary
19 fault map it has the appearance to me that it is
20 across the plant site, or in very close proximity
21 to it.

22 Q Are there any --

23 A And I will maintain that statement. I
24 am not saying that I -- the appearance to me is
25 that it is either under the plant site or in close

1 proximity to it, being to the east. I couldn't
2 say more definitively than that.

3 Q Are there any geological features,
4 physical features that would confirm your
5 conclusion?

6 A Well, I'm assuming -- there's nothing
7 that I have seen. I'm assuming that Mr. Sawyer
8 mapped those fault segments based on some type of
9 geomorphic evidence in the field.

10 Q Okay, --

11 A And so it should be possible to more
12 closely delineate where it is in relation to the
13 site. And it seems that that would be beneficial
14 for not just the site, but for gasline connections
15 to the site. Have I answered your question?

16 Q Yes, thank you. In response to Ms.
17 Crockett's questions you said that it was not my
18 place to determine whether seismic zone 3
19 requirements that would apply in this instance, is
20 that correct?

21 A Yes, that's correct.

22 Q Is that because the UBC determines that,
23 I'm sorry, the California Building Code determines
24 that?

25 A Well, it's because I don't have the

1 experience in engineering geology to state
2 specifically the risks, whether it -- well, to
3 state how the ground motion there would compare
4 with what's allowed for in a seismic zone 3.

5 Q I see.

6 MR. RATLIFF: Thank you.

7 HEARING OFFICER BOUILLON: Mr. Wolfe?

8 MR. WOLFE: Yes, just a couple
9 clarifying questions.

10 CROSS-EXAMINATION

11 BY MR. WOLFE:

12 Q The engineering geology report required
13 by the CBC something that would necessarily
14 require specific identification of a location of
15 this fault in relation to the --

16 A Well, from what I've seen in looking
17 through the building codes, as far as the
18 requirements that the code specifies, it seems
19 like in chapter 16 they make specific reference to
20 an engineering geology report for the purposes of
21 characterizing ground motion at the site.

22 Elsewhere in chapter 33 it didn't make
23 reference to that type of information in the
24 report.

25 I would agree with Mr. Barrie's

1 testimony that professional prudence, based on the
2 engineering geologists that I've worked with, that
3 would generally be information that you would
4 include.

5 But as far as specific regulations in
6 the building codes that I've looked through I did
7 not see that specific requirement everywhere.

8 Q So in the absence of such a specific
9 requirement, in your opinion would it be helpful
10 to include, as a condition, that the engineering
11 geology report specifically identify the location
12 of this unnamed fault in relation to the site
13 footprint to confirm whether or not it actually
14 crosses it?

15 A Yes, it would be helpful.

16 Q Thank you.

17 HEARING OFFICER BOUILLON: Any redirect?

18 REDIRECT EXAMINATION

19 BY MS. CROCKETT:

20 Q Mr. Pfeiffer, these unknowns cause you
21 concern?

22 A Yes.

23 Q And you would feel -- would you feel
24 better if there was specific reference in the
25 conditions of certification that specifically

1 stated both 16, and in specifically the reference
2 section in your testimony?

3 A Restate that?

4 Q Would you, having section 16 of the
5 building code, and specifically those sections of
6 that building code that were cited in your
7 testimony, as stated for conditions of
8 certification, would that resolve a lot of your
9 uneasiness about the plant design?

10 A Yes, it would.

11 Q Thank you.

12 MS. CROCKETT: No more questions.

13 HEARING OFFICER BOUILLON: Does anyone
14 have any questions based on that?

15 Would you like to offer --

16 MS. CROCKETT: I will ask that the
17 testimony and the PG&E report done by Piedmont
18 GeoSciences be entered into evidence.

19 HEARING OFFICER BOUILLON: Any
20 objection?

21 MR. ZISCHKE: No objection.

22 MR. RATLIFF: No.

23 HEARING OFFICER BOUILLON: That's
24 entered. Are you also offering Mr. Pfeiffer's
25 testimony?

1 MS. CROCKETT: I thought I did state
2 testimony, but I will also offer Mr. Pfeiffer's
3 testimony into evidence -- ask that it be put into
4 evidence.

5 HEARING OFFICER BOUILLON: Any
6 objections.

7 MR. ZISCHKE: I've no objection.

8 MR. RATLIFF: No.

9 HEARING OFFICER BOUILLON: That will
10 also be entered. Thank you, Mr. Pfeiffer.

11 MR. PFEIFFER: Thank you.

12 HEARING OFFICER BOUILLON: I believe
13 that concludes the hearings on the topic of
14 geological resources.

15 It's my understanding that we have a
16 substantial number of topics upon which there are
17 stipulations as to the admission of testimony, and
18 I'd like to take that up at this time.

19 Is one of the attorneys prepared to make
20 a statement for the record as to which sections
21 are being stipulated to?

22 MS. COTTLE: It's our understanding that
23 the parties have agreed to take testimony by
24 stipulation for several areas, and I'll just read
25 the list that I have.

1 Project description, worker safety and
2 fire protection, transmission line safety and
3 nuisance, hazardous materials, waste management,
4 traffic and transportation, cultural resources,
5 facility design, power plant reliability, power
6 plant efficiency, the conditions of compliance and
7 general conditions, public health.

8 I believe that's all, that 12 according
9 to my count.

10 HEARING OFFICER BOUILLON: With regard
11 to the issues of public health I understand that
12 there are some issues involving air emissions that
13 are going to be continued to the hearings on air
14 and water and biological resources and
15 alternatives.

16 But with that exception, are the parties
17 in agreement that the testimony of both the staff
18 and the applicant, as listed in their prehearing
19 conference statements, --

20 MR. WOLFE: Just for clarity's sake if
21 the applicant could quickly summarize what public
22 health topic are proposed to be entered by
23 stipulation? I don't know what remains other than
24 air quality, frankly, but --

25 MS. COTTLE: I guess that's everything

1 but the air issues. I'm not sure how else to
2 delineate that.

3 MR. WOLFE: Which are?

4 HEARING OFFICER BOUILLON: I think
5 you're correct, Mr. Wolfe, that they all deal with
6 the air that I've read.

7 MR. WOLFE: I think it would be easier
8 just to put all public health to phase two, and
9 not stipulate to it at this time.

10 HEARING OFFICER BOUILLON: Why don't we
11 defer the stipulation on public health. Mr.
12 Ratliff?

13 MR. RATLIFF: I think with that
14 exception we would stipulate to all of those
15 topics that have been listed by the applicant.

16 HEARING OFFICER BOUILLON: All right.
17 As indicated by the AFC, the testimony of the
18 applicant submitted earlier, those sections
19 related to those topics will be admitted, as will
20 those sections of the final staff assessment.

21 Were any of those topics covered in the
22 errata that you submitted, Mr. Ratliff?

23 MR. RATLIFF: I believe not.

24 HEARING OFFICER BOUILLON: All right,
25 then can we turn to the topic of socioeconomics?

1 MR. RATLIFF: Staff witness in
2 socioeconomics is Mr. Jim Adams.

3 HEARING OFFICER BOUILLON: Do you want
4 to go before the applicant?

5 MR. RATLIFF: Oh, I'm sorry. I didn't
6 know that -- I'd forgotten that they were putting
7 on a witness, as well.

8 HEARING OFFICER BOUILLON: Ms. Cottle.
9 From the applicant's perspective who is the --

10 MR. ZISCHKE: The witness on
11 socioeconomics is Danielle Tinman.

12 HEARING OFFICER BOUILLON: All right.
13 Whereupon,

14 DANIELLE TINMAN
15 was called as a witness herein, and after first
16 having been duly sworn, was examined and testified
17 as follows:

18 DIRECT EXAMINATION

19 BY MR. ZISCHKE:

20 Q Good morning. Could you please state
21 your name for the record?

22 A Danielle Tinman.

23 Q And your qualifications were submitted
24 with Three Mountain Power's prehearing conference
25 statement, is that correct?

1 A Yes.

2 Q And could you describe your current
3 position?

4 A I'm the Policy and Communications
5 Manager for Ogden Energy Group.

6 Q Did you prepare the direct testimony on
7 socioeconomics that was submitted by Three
8 Mountain Power and entitled, socioeconomics -
9 Danielle Tinman?

10 A I did.

11 Q Is that testimony true and correct to
12 the best of your knowledge?

13 A Yes.

14 Q And if asked to testify today would your
15 testimony be substantially the same?

16 A Yes.

17 Q One of the proposed conditions of
18 certification in the final staff assessment calls
19 for an agreement with the Burney Fire District on
20 funding for equipment and training. That proposed
21 condition is labeled SOCIO-2.

22 Are you familiar with that proposed
23 condition?

24 A Yes, I am.

25 Q Could you describe for the Committee and

1 the parties the current status of negotiations
2 with the district pursuant to that condition?

3 A Three Mountain Power has entered into
4 negotiations with the Burney Fire District about
5 the timing, the amount of funds that will be
6 provided by Three Mountain Power to fully mitigate
7 the emergency response issues that might result
8 from the building, construction and operation of
9 Three Mountain Power.

10 And at this point the contract is before
11 the Burney Fire District and they are reviewing
12 the draft, and we hope to have a final resolution
13 on this soon.

14 Q So essentially the agreement has been
15 negotiated and is now awaiting consideration by
16 the Board of the Fire District, is that right?

17 A Yes, pending review by the attorneys
18 from the Burney Fire District.

19 Q Thank you.

20 MR. ZISCHKE: No further questions.

21 HEARING OFFICER BOUILLON: Mr. Ratliff.

22 MR. RATLIFF: No.

23 HEARING OFFICER BOUILLON: Mr. Wolfe?

24 MR. WOLFE: No.

25 HEARING OFFICER BOUILLON: Ms. Crockett.

1 CROSS-EXAMINATION

2 BY MS. CROCKETT:

3 Q Good morning. Your proposal to Burney
4 Fire District is subjective to if the plant goes
5 in, is that correct?

6 A Um-hum.

7 Q And you say to mitigate specific
8 problems with emergency response for the plant.
9 Would you clarify for the Commissioners what that
10 means?

11 A The Burney Fire District has said that
12 they would like specific funding and equipment to
13 mitigate any possible emergency response issues
14 that might come up as a result of construction or
15 operation of the proposed power plant.

16 Q Their main concern is high rise injury,
17 is that correct, Ms. Tinman?

18 A They've expressed several concerns to
19 the California Energy Commission Staff, including
20 response to hazardous materials, training and high
21 rise response, emergency response.

22 Q So for clarification to the Committee,
23 since the Burney Fire Department does respond at
24 the paramedic level currently, the specific -- and
25 for clarification to the Committee, for an

1 emergency response, paramedic level is the highest
2 field response, so that is already in place
3 whether or whether not the plant does exist, is
4 that correct, Ms. Tinman?

5 A I can't speak to that.

6 Q Okay. So, basically they talked about
7 the hazmat that might be part of the response to
8 the plant or high rise, and the specific piece of
9 equipment that the Burney Fire District has
10 requested is actually a ladder truck, is that --
11 ladder and platform truck?

12 A The fire chief has requested compression
13 foam backpacks, as well as possible platform-
14 ladder truck. That has not yet been ratified by
15 the board of directors, however.

16 Q But in the \$150,000 to \$165,000 price
17 tag we are discussing, it would be reasonable to
18 assume that that hook-and-ladder truck or platform
19 truck represents a great majority of that money?

20 A Yes.

21 Q And so consequently that would be the
22 equipment additions that would be added, as well
23 as the foam packs and the training in hazmat?

24 A The proposal is to provide the Burney
25 Fire District with an amount of funds that they

1 could use at their discretion to address the needs
2 that they believe are relevant as a result of
3 Three Mountain Power construction and operation.

4 Q Has anything other than the platform
5 truck and the foam packs been discussed?

6 A Not to my knowledge.

7 Q Thank you.

8 A Actually, if I could add to that,
9 training has been discussed.

10 Q The training, that is correct.

11 A Training associated with those, yes.

12 Q With the foam packs?

13 A Yes.

14 MS. CROCKETT: Thank you.

15 HEARING OFFICER BOUILLON: Mr. Evans.

16 MR. EVANS: No.

17 HEARING OFFICER BOUILLON: Any redirect?

18 MR. ZISCHKE: No redirect. I would ask
19 to move into evidence the testimony of Danielle
20 Tinman. And, also we had confirmed through emails
21 among the parties and staff that Ms. Tinman was
22 the only witness we were going to call on
23 socioeconomics.

24 But I would also move into evidence the
25 testimony of Rika Nitka and Michael Costanza on

1 socioeconomics. Their testimony was submitted
2 with declarations, but we'd confirmed prior to
3 this that we were going to present Danielle Tinman
4 on this topic and not the others.

5 HEARING OFFICER BOUILLON: In addition,
6 do I understand you to say when you offer their
7 testimony that you incorporate into their
8 testimony the applicable sections of the AFC?

9 MR. ZISCHKE: Yes.

10 HEARING OFFICER BOUILLON: And their --
11 well, it appears their qualifications are in the
12 testimony.

13 MR. ZISCHKE: And the qualifications are
14 attached to the testimony.

15 HEARING OFFICER BOUILLON: All right.
16 Any objection?

17 MR. RATLIFF: No.

18 HEARING OFFICER BOUILLON: They'll be
19 admitted. You're excused, thank you very much.

20 Mr. Ratliff, do you have a staff
21 witness?

22 MR. RATLIFF: Yes. Mr. Jim Adams.

23 Whereupon,

24 JAMES ADAMS

25 was called as a witness herein, and after first

1 having been duly sworn, was examined and testified
2 as follows:

3 DIRECT EXAMINATION

4 BY MR. RATLIFF:

5 Q Mr. Adams, did you prepare the portion
6 of the final staff assessment titled
7 socioeconomics?

8 A Yes, I did.

9 Q And are your qualifications also made
10 part of the FSA?

11 A Yes, they are.

12 Q Is your testimony true and correct to
13 the best of your knowledge and belief?

14 A Yes, it is.

15 Q Do you have any changes to make in it at
16 this time?

17 A No.

18 Q Would you summarize your testimony
19 briefly?

20 A Sure. Basically I reviewed the
21 application for certification, the socioeconomics
22 section, and I also did my own analysis. My
23 conclusion is that the project would have a
24 positive socioeconomic impact, both in the Burney
25 area and the Greater Redding/Shasta County area.

1 When you consider the payroll, the size
2 of the project, the materials purchased, it would
3 be a significant impact, I think, at least for
4 Burney because it is in a period of relative
5 economic decline due to the decline of the timber
6 industry. And any project or jobs generated would
7 have a positive economic effect.

8 In terms of impacts it would not have
9 any adverse impact on the schools or some of the
10 other services. It's my understanding that the
11 water district and the applicant have made a
12 tentative agreement in terms of the water.

13 And as Ms. Tinman just described, there
14 is an apparent agreement between the fire
15 district, or at least being considered by the fire
16 district in terms of the need for additional
17 equipment and training, which is one of the
18 conditions of certification that I had noted in my
19 assessment.

20 The other one dealt with the need, to
21 the extent possible, to use the local labor and
22 materials whenever possible.

23 Basically I think, you know, the
24 conclusion speaks for itself. I don't think
25 there's any outstanding issues or disagreements

1 between the applicant's analysis and my own. And
2 I believe it will have a positive socioeconomic
3 impact.

4 Q Mr. Adams, in your work in
5 socioeconomics, have you become acquainted with
6 the EPA federal guidelines for environmental
7 justice?

8 A Yes, I'm familiar with them.

9 Q And those are the guidelines that
10 implement the executive order concerning
11 environmental justice, is that correct?

12 A Yes.

13 Q You have visited the Burney area?

14 A Yes, I have, several times.

15 Q And in your visits to the Burney area
16 did you make inquiry as to whether or not this
17 might be what is sometimes called an environmental
18 justice community?

19 A Yes, I did. In addition to reviewing
20 basic U.S. Census Bureau data and other data
21 provided by the City of Redding and whatnot, I was
22 able to determine that there's a very small
23 population of what would be called minority
24 population in the area.

25 In addition, I contacted the members of

1 the Pit River Tribe, particularly their cultural
2 information person. And tried to determine what
3 the size of the population was, and where they
4 were physically located. If they were
5 concentrated in any small area

6 In addition, I contacted a couple of
7 members of the Chamber of Commerce to try to
8 determine what they knew about possible
9 populations of low-income people. And whether or
10 not they are distributed throughout the
11 population.

12 And basically, based on that, plus my
13 own driving around the area and just taking a look
14 around as much as I could to verify what I was
15 told, I believe that's true. And I do believe
16 there's no really -- well, I guess it would be
17 congregation of a minority or low-income
18 population in the area.

19 And therefore I noted that in my
20 environmental justice analysis.

21 Q Thank you.

22 MR. RATLIFF: I have no other questions.

23 HEARING OFFICER BOUILLON: Mr. Zischke?

24 MR. ZISCHKE: No questions, thank you.

25 HEARING OFFICER BOUILLON: Mr. Wolfe?

1 Ms. Crockett?

2 CROSS-EXAMINATION

3 BY MS. CROCKETT:

4 Q Just one, maybe two. In your comment
5 about the Burney area being economically
6 depressed, there will be no argument there.

7 Now, I have an attendance record from
8 the Burney Falls Park for the last 40 years, which
9 I will enter into evidence if it's accepted, that
10 indicates an average annual attendance of 200,000
11 people a year, annually.

12 Would it be agreed by you in your visits
13 to Burney that most people talk about spring
14 through fall as the time when that town survives?

15 A I can't recall any particular
16 conversation I've had where I've heard that, but
17 it's my assumption, based on what I do know about
18 the Burney area, that it does rely on tourists and
19 vacation time. And I would anticipate that people
20 coming at that time of year as opposed to winter
21 is a logical thing to assume.

22 Q And in fact I'll agree with you because
23 that is what happens a lot of times in Burney is
24 that the winter we barely get through, and anyhow,
25 with the addition, after the plant is built, of 20

1 to 25 new jobs, do you think the impact on the
2 economy will be as substantial as the impact of
3 the tourism that comes into this area?

4 A Well, actually I haven't considered that
5 in quite that context. But I would say if you're
6 looking at 20 to 25 jobs and the multiplier effect
7 which you need to deal with in terms how the money
8 moves through the local economy, compare that
9 effect with say 200,000 people who come to the
10 area and the money that basically rolls through
11 the economy on their basis, I'd have to say that
12 at first blush the impact of the tourism would be
13 greater than the impact of the jobs generated by
14 the plant.

15 Q How do you think visually this plant is
16 going to impact tourism, and we won't get into it
17 now, but at a later point we'll be discussing the
18 water issues in the plant and the park, but have
19 you seen a plant of this size personally?

20 A Not of this size. I've seen plants that
21 are maybe 100, 200 megawatts, but not 500
22 megawatts. And you know, I didn't really do a
23 visual analysis of the plant and how that would
24 affect tourism, so I couldn't really speak to that
25 issue.

1 Q Would you describe the 200 megawatt
2 plant that you saw?

3 A Well, I guess you would say it's a
4 typical plant in terms of there's stacks involved,
5 there's other structures that are, you know, 100
6 feet high or so. There's related facilities, and
7 then there's what we call linears, which is
8 transmission lines and what-not. I mean that
9 would be my general description.

10 MR. RATLIFF: I don't want to object to
11 any of these questions, but I would point out that
12 we have a visual resources witness who has
13 presented testimony on visual resources and will
14 be testifying on these issues today, and will be
15 subject to cross-examination.

16 Mr. Adams is not that witness.

17 HEARING OFFICER BOUILLON: I think
18 that's appropriate, Ms. Crockett.

19 MS. CROCKETT: That's a good point. One
20 more quick question.

21 BY MS. CROCKETT:

22 Q In your opinion on the socioeconomics,
23 do you think the plant will actually encourage or
24 help the tourism?

25 A I'd have to say I hadn't really thought

1 about that.

2 Q Thank you.

3 HEARING OFFICER BOUILLON: Commissioner
4 Laurie.

5 EXAMINATION

6 BY COMMISSIONER LAURIE:

7 Q Mr. Adams, could you turn to SOCIO-1,
8 please -- correct that, SOCIO-2.

9 A Yes, I have.

10 Q SOCIO-2 calls for an agreement with the
11 fire district, doesn't it?

12 A Yes, sir, it does.

13 Q Is the intent of that mitigation measure
14 to require an agreement as mitigation or the terms
15 and conditions as set forth in that agreement as
16 the mitigation measure?

17 A I think the purpose of this condition
18 was to insure that whatever equipment or training
19 that the fire chief and the district thought was
20 necessary for the construction and operation of
21 that plant was provided for, and that it was up to
22 the district and the applicant to work out the
23 specific terms.

24 But as long as equipment and training is
25 provided for, that's really the thrust of the cert

1 condition.

2 COMMISSIONER LAURIE: Thank you. Mr.
3 Hearing Officer, I would just note to staff and
4 otherwise that I always have a great discomfiture
5 about requiring third-party agreements.

6 What we're looking for is the mitigation
7 through agreement, through written agreement or
8 otherwise. Thus, I will indicate a discomfiture
9 with requiring an agreement as opposed to evidence
10 of the mitigation through agreement or otherwise.

11 HEARING OFFICER BOUILLON: If I might
12 inquire of the applicant in that regard, not as a
13 matter of evidence, but just for our information,
14 how close are you to reaching an agreement?

15 MR. ZISCHKE: We've submitted a draft of
16 the agreement to the Burney Fire District, and
17 they have submitted it to their attorney. We
18 expect it to be taken up at their next board
19 meeting depending upon the availability of board
20 members to attend that meeting.

21 HEARING OFFICER BOUILLON: And you'll
22 submit that to the Committee if it is approved?

23 MR. ZISCHKE: We will submit that to the
24 Committee when it's approved. We'll docket it
25 when it's approved.

1 HEARING OFFICER BOUILLON: And do you
2 anticipate that it will be approved?

3 MR. ZISCHKE: We anticipate it, having
4 met with a subcommittee of the fire board and the
5 fire chief together to discuss what our plans were
6 and what their needs were.

7 MR. RATLIFF: I would just comment that
8 I think your point is a very good one. The staff
9 also is uncomfortable with requirements of third-
10 party agreements for, I think, the same reason.

11 I think this was probably an expediency
12 because we usually try to let this get negotiated
13 out between the applicant and the local agency
14 concerning what exact needs the agency has and how
15 they're going to be met.

16 Usually that has been successful and
17 hasn't required further staff or agency
18 intervention at all. But perhaps we should re-
19 examine how we're writing the condition to try to
20 make it a little better.

21 COMMISSIONER LAURIE: And, Mr. Ratliff,
22 it's certain these conditions, as worded, as
23 you've proposed, are not unique. All entities do
24 it. But I always have a discomfiture.

25 What we're looking for again is evidence

1 of mitigation. And not necessarily the agreement.

2 HEARING OFFICER BOUILLON: Do you have
3 any redirect, Mr. Ratliff?

4 MR. RATLIFF: No.

5 HEARING OFFICER BOUILLON: Did you say
6 no?

7 MR. RATLIFF: No.

8 HEARING OFFICER BOUILLON: I assume
9 there's no objection to this testimony?

10 MR. ZISCHKE: Correct, no objections.

11 HEARING OFFICER BOUILLON: It will be
12 admitted. You're excused, thank you.

13 Do we have any other witnesses on the
14 topic of socioeconomics?

15 That matter will be closed.

16 That leaves us -- before we proceed,
17 during the stipulations I did not hear land use
18 mentioned.

19 MR. ZISCHKE: I believe that there's
20 cross-examination desired by the Burney Resources
21 Group of staff's land use witness. We had
22 confirmed, and I was going to say this at the
23 time, by email that there was not going to be an
24 examination of our witness on land use. And our
25 witness is not here with the consent of all the

1 parties and staff.

2 HEARING OFFICER BOUILLON: Does that
3 reflect your understanding?

4 MS. CROCKETT: That reflects our
5 understanding. And I just have a few questions of
6 staff on land use.

7 HEARING OFFICER BOUILLON: Is Mr. Walker
8 available?

9 MR. RATLIFF: Yes, he is.

10 HEARING OFFICER BOUILLON: Let's go to
11 land use, then.

12 MR. RATLIFF: The staff witness in land
13 use is Mr. Gary Walker.
14 Whereupon,

15 GARY WALKER
16 was called as a witness herein, and after first
17 having been duly sworn, was examined and testified
18 as follows:

19 MR. WALKER: I apologize for my informal
20 attire. I got my schedule mixed up on the hearing
21 reschedule date.

22 DIRECT EXAMINATION

23 BY MR. RATLIFF:

24 Q Mr. Walker, did you prepare the portion
25 of the final staff assessment titled visual

1 resources?

2 A Land use.

3 Q I'm sorry, wrong topic. Land use, thank
4 you.

5 (Laughter.)

6 MR. RATLIFF: I should note that Mr.
7 Walker has been my visual resources witness on
8 many occasions.

9 BY MR. RATLIFF:

10 Q Is that testimony true and correct to
11 the best of your knowledge and belief?

12 A Yes.

13 Q Do you have any changes to make in it at
14 this time?

15 A No.

16 Q Could you summarize it briefly?

17 A Yes. Staff's land use analysis for the
18 Three Mountain Power Project focuses on two main
19 issues, the project's consistency with applicable
20 land use plans, ordinances and policies, and the
21 project's compatibility with existing and planned
22 land uses.

23 The information used in the analysis
24 included the application for certification, the
25 applicant's responses to staff's data requests,

1 land use documents from Shasta County,
2 conversations and correspondence with
3 representatives of agencies and members of the
4 public, discussions with other members of the
5 Energy Commission Staff, site visits and aerial
6 photographs of the project vicinity.

7 The Shasta County general plan
8 designates the proposed power plant site for
9 industrial use. The Shasta County zoning map
10 shows that the site is zoned for general
11 industrial combined with the design review
12 district.

13 The zoning plan includes power
14 generating plants as a use permitted in the
15 general industrial district if a use permit is
16 issued.

17 In addition, private energy production
18 is considered a public utility in the Shasta
19 County zoning plan. Public utilities are
20 permitted if a use permit is issued provided the
21 use is found to be compatible with and will not
22 adversely impact surrounding land uses.

23 Staff has found that the project, with
24 staff's proposed mitigation measures, will be
25 compatible with and would not adversely impact

1 surrounding land uses. Therefore, the project
2 would meet the requirements for a use permit.

3 The zoning plan specifies site
4 development standards for the general industrial
5 district. One standard is the maximum structural
6 height is 45 feet. Five project components would
7 exceed this limit. The two, 140-foot-tall heat
8 recovery steam generators stacks, the 118-foot-
9 tall electric transmission towers, the 47-foot
10 tall office and control building, the 57-foot-tall
11 cooling tower, and the 104-foot-tall turbine
12 building.

13 The zoning plan allows any structure in
14 any district to be erected to a greater height
15 than the limit provided that a use permit is
16 issued.

17 The applicant has discussed the
18 exemption to the height restriction in the zoning
19 ordinance with the Shasta County Department of
20 Resources Management, Planning Division.

21 The planning Division has indicated that
22 their procedure would normally be to issue an
23 exemption for the height limitation as part of the
24 use permit process for the site.

25 They have done this for other projects,

1 including the existing Burney Mountain Power Plant
2 located on the same parcel of land.

3 The process involves conducting an
4 environmental review under the California
5 Environmental Quality Act. Because the Energy
6 Commission's certification process is an
7 equivalent process, the planning division has
8 indicated that they will agree to an exemption
9 from the zoning code with appropriate conditions
10 for visual mitigation to be included in the Energy
11 Commission's final approval of the project.

12 Shasta County's recommended conditions 9
13 and 10 are the conditions that the County would
14 have required to mitigated the impacts of the tall
15 power plant structures if a use permit had been
16 issued. The Energy Commission Staff has
17 incorporated these requirements in its proposed
18 visual resources conditions of certification.

19 The site development standards for
20 general industrial districts require that an
21 applicant for either a building permit or a use
22 permit submit a site plan that indicates how the
23 standards listed in the section will be met.

24 The Energy Commission Staff's proposed
25 condition of certification LAND-1 insures that the

1 project would comply with the applicable site
2 development standards for the general industrial
3 district, and includes review by Shasta County.

4 The zoning plan states that uses
5 permitted outright, and those permitted with a
6 zoning, administrative or use permit in the
7 principal district are permitted in the design
8 review district that a use permit has been issued.

9 Because the Energy Commission's decision
10 will fulfill the role of the use permit, the
11 project would be permitted in the design review
12 district subject to the requirements of the
13 district.

14 The Energy Commission Staff has proposed
15 conditions of certification that contain the
16 requirements Shasta County recommended be placed
17 on the approval of the project which would have
18 been presumably placed on a use permit.

19 The Energy Commission adoption of those
20 conditions in a decision would achieve compliance
21 with the use permit requirements of the zoning
22 plan.

23 The County letter lists a number of
24 conditions that it recommends be placed on
25 approval of the project. Most of the County's

1 recommended conditions concern and are addressed
2 in staff testimony regarding other technical
3 areas.

4 However, County conditions 2 and 14
5 through 19 are most appropriately addressed in
6 conditions regarding land use. To have this
7 incorporated, these County-recommended conditions
8 in staff's proposed conditions of certification
9 LAND-2, LAND-3, LAND-4 and LAND-5.

10 In regard to compatibility with
11 surrounding land uses the power plant would be
12 located on a site that contains an existing
13 electric power plant. The proposed power plant
14 therefore represents further development of the
15 site committed to energy-relates uses rather than
16 the introduction of industry to a nonindustrial
17 area.

18 The site is designated industry on the
19 Shasta County General Plan Land Use map. A power
20 plant is consistent with this land use designation
21 and would not constitute a change in the current
22 development pattern of the area as established by
23 the general plan.

24 No residences adjoin the power plant
25 site. The site is buffered from the nearest

1 residences by a distance approximately 1400 feet,
2 and by trees.

3 Staff has found that the project would
4 not cause significant adverse effects on land uses
5 in the vicinity except for the possible impacts on
6 Burney Falls.

7 David A. Nelson of the California
8 Department of Parks and Recreation has expressed
9 his concern regarding the power plant's potential
10 to degrade Burney Falls. Mr. Nelson stated that
11 the amount of water that the applicant estimated
12 would be reduced at the Falls due to the power
13 plant would be significant.

14 Burney Falls is a primary attraction in
15 Burney McArthur Falls Memorial State Park.
16 Degradation of the Falls could adversely affect
17 the recreation and land use of the park.

18 Staff is awaiting further information on
19 the project's expected effects on water supply
20 before taking a position on this issue and plans
21 to provide its evaluation in future testimony.

22 Two residential developments have been
23 proposed in the vicinity of the proposed power
24 plant site. The closest proposed development is
25 across State Route 299, approximately 1000 feet

1 south of the proposed power plant site. The other
2 proposed residential development is approximately
3 2000 feet northwest of the proposed power plant
4 site.

5 Both of these developments are currently
6 on hold. No action has been taken on either plan
7 within the past two years, and the owners of the
8 developments have informed the applicant that no
9 action in the near future will be taken to proceed
10 with the developments.

11 Even if these developments were to be
12 completed, distance and existing trees would
13 buffer them from the power plant site.

14 In summary, staff concludes that except
15 for the potential impacts on McArthur Burney Falls
16 Memorial State Park the proposed project would be
17 compatible with existing and planned land uses,
18 because one, the project is compatible with heavy
19 industrial character of the site; two, the project
20 would not physically divide an established
21 community; three, the project would not
22 substantially preclude or restrict existing land
23 uses; four, the project would not preclude or
24 restrict any planned uses; and, five, the project,
25 with mitigation, would not cause any significant

1 dust, noise, traffic or visual impacts based on
2 discussions with Energy Commission air quality,
3 noise, traffic and transportation and visual
4 resources staff.

5 The project also would not contribute
6 substantially to any cumulative land use impacts.

7 Staff also concludes that the project
8 would comply with all applicable land use laws,
9 ordinances, regulations and standards with the
10 exception of the height limit of 45 feet.
11 However, because the Shasta County planning
12 division has stated that the County would grant an
13 exemption to this requirement with the inclusion
14 of visual mitigation measures, the project would
15 be allowed.

16 That concludes my summary.

17 Q Thank you.

18 MR. RATLIFF: The witness is available
19 for cross-examination.

20 HEARING OFFICER BOUILLON: Thank you.
21 Mr. Zischke.

22 MR. ZISCHKE: No questions, thank you.

23 HEARING OFFICER BOUILLON: Mr. Wolfe?

24 MR. WOLFE: No.

25 HEARING OFFICER BOUILLON: Ms. Crockett.

1 MS. CROCKETT: Thank you.

2 CROSS-EXAMINATION

3 BY MS. CROCKETT:

4 Q Good morning, Mr. Walker.

5 A Good morning.

6 Q I notice in all of the land use there is
7 a map that delineates a one-mile radius from the
8 plant. Could you explain why one mile is chosen?

9 A One mile is typically considered the
10 distance where impacts to neighboring land uses
11 would occur.

12 Q How extreme are those impacts?

13 A As I stated in my summary, staff did not
14 expect any significant impacts.

15 Q Staff is aware that applicant recently
16 refiled their wastewater summary to the state
17 regional water control board?

18 A Yes, I'm aware of that.

19 Q Are you also aware that in that proposal
20 they asked to be allowed to increase the TDS
21 levels from 1000 mg/liter to 5000 mg/liter?

22 COMMISSIONER LAURIE: Excuse me. Mr.
23 Bouillon, I'm not satisfied this is a land use
24 issue, and I'm not satisfied that this witness has
25 the expertise to respond.

1 MR. RATLIFF: Thank you, Commissioner,
2 the --

3 HEARING OFFICER BOUILLON: I believe
4 that's correct. We will deal with that matter
5 when --

6 MR. RATLIFF: I think this is a part two
7 hearing topic, actually. --

8 HEARING OFFICER BOUILLON: Excuse me?

9 MR. RATLIFF: It is a part two hearing
10 topic. It's questionable to what extent the land
11 use issue crosses over into water use, but staff
12 will fully address these issues in its part two
13 testimony in terms of water quality and water use
14 impacts related to the project.

15 BY MS. CROCKETT:

16 Q Are you aware, Mr. Walker, that there is
17 prime agricultural land within the one-mile radius
18 of the plant?

19 A Yes.

20 Q Does the state normally site power
21 plants within one mile of prime agricultural land?

22 A It has done so in the past.

23 Q Are there concerns about that?

24 A There are possible concerns. In fact, a
25 concern was raised by Burney Resources Group in

1 comments on the preliminary staff assessment about
2 impacts to groundwater.

3 Q Did the Burney Resources Group also ask
4 about the actual impact to the land, itself,
5 notwithstanding the water?

6 A In terms of water being used for
7 irrigation?

8 Q No, salt deposition, chemicals, crops.

9 A Yes, but wasn't that through irrigation
10 water use that would be -- that could be
11 contaminated by the project?

12 Q I'm not sure if I'm going into an area
13 that's a phase two. I will --

14 MR. BARRIE: I believe that the chemical
15 questions all relate either to air or water, and
16 that those are part two topics.

17 MS. CROCKETT: Okay. Then I will wait
18 until phase two for those questions. Thank you.

19 HEARING OFFICER BOUILLON: Any redirect?

20 MR. RATLIFF: No.

21 EXAMINATION

22 BY COMMISSIONER LAURIE:

23 Q Mr. Walker, --

24 A Yes, sir.

25 Q -- is it your testimony that this

1 project complies with LORS?

2 A Except for the possible problem with
3 Burney Falls Park in the sense that if one
4 construed the incompatibility with surrounding
5 land uses to include that not immediately
6 surrounding land use.

7 Q Okay, so the general plan policy talked
8 about compatibility and incompatibility, and
9 except to the extent that the park may be
10 considered an incompatible use then it would
11 otherwise be consistent?

12 A Yes.

13 Q It is noted that this project requires a
14 parcel map for the purpose of forming the parcel
15 upon which the project is going to sit, is that
16 correct?

17 A Yes.

18 Q So would this project be consistent
19 without that parcel map? Will the project meet
20 LORS without that parcel map?

21 A I would expect that it would not, but we
22 have proposed a condition that that be required.
23 That the applicant acquire that parcel map.

24 Q So is it your opinion that the
25 successful completion of that parcel map is a

1 condition to compliance with LORS?

2 A Yes.

3 Q And at what point in time does that
4 parcel map have to be completed? Look at page
5 108.

6 A The way the condition is worded, upon
7 recommendation by the County the LAND-2 states,
8 that prior to final approval of any proposed land
9 division to create a separate parcel for the
10 Burney Mountain Power Plant to allow it by Shasta
11 County use permit number 3-83, the project owner
12 shall insure that the plot plan and conditions of
13 UP3-83 are changed, as appropriate, to reflect the
14 proposed plant and/or property segregation.

15 And the verification requires that the
16 project owner insure that the revised plot plan
17 and conditions of UP3-83 are filed with the Shasta
18 County and shall provide evidence of the filing
19 with the compliance project manager.

20 And so it's prior to final approval of
21 the land division they must provide the plot plan.

22 Q Okay, but --

23 A There's no connection with the decision,
24 is that what you're asking, with our decision?

25 Q Yes.

1 A Right. It seems like that would be
2 appropriate, that we include such a connection.
3 But to have it done before the decision I'm not
4 sure legally whether that's required because we
5 have many conditions that are satisfied after
6 certification.

7 Q Okay, well, my concern is that I'm not
8 sure this issue has been given thought.

9 MR. ZISCHKE: For the applicant I can
10 clarify that we're not required to divide the
11 land, we're required to clarify the use permit and
12 the relationship between the existing use permit
13 for Burney Mountain Power, and the new facility.
14 Even though not required to divide the land, we
15 are processing that at this time.

16 So, I'm not sure if we have the exact --

17 MR. McFADDEN: The status on the
18 application is that it's been submitted to the
19 Shasta County Resources Management Division
20 Planning Department, and that we understand that
21 it will be brought to the planning commission for
22 hearing on April 6th.

23 COMMISSIONER LAURIE: Okay, so it is now
24 my understanding that a parcel map is not legally
25 necessary for this project to be constructed. Is

1 that your representation?

2 MR. ZISCHKE: Yes.

3 COMMISSIONER LAURIE: Okay, that's
4 helpful. Thank you.

5 BY COMMISSIONER LAURIE:

6 Q Mr. Walker, let me ask you a question in
7 regards to LAND-1. Can you clarify for me again
8 when the site plan has to be approved?

9 A The verification portion of LAND-1
10 states that at least 60 days prior to the start of
11 construction of the proposed project the project
12 owner shall submit the site plan to the compliance
13 project manager for review and approval.

14 The 60-day lead time is to enable staff
15 to review the application and determine if any
16 changes need to be made before it can be approved
17 by the compliance project manager.

18 So, the compliance would be required,
19 but prior to the start of construction.

20 Q And you are satisfied that you can make
21 a recommendation of consistency with LORS by
22 mitigating -- strike that -- by conditioning
23 project construction on approval of the site plan,
24 as opposed to having that effort completed prior
25 to the decision?

1 A Yes.

2 COMMISSIONER LAURIE: I have no more
3 questions.

4 BY PRESIDING MEMBER KEESE:

5 Q Do I understand the seven conditions, I
6 believe it was seven conditions the County had,
7 are included in LAND-1? Is that where they're
8 picked up?

9 A No, they're included in several
10 different conditions. Conditions 2 and 14 through
11 19 are incorporated in conditions LAND-2, LAND-3,
12 LAND-4 and LAND-5.

13 One of them had to do with the land
14 division, number 2. Number 3 had to do with the
15 screening as required in the zoning plan. Number
16 4 had to do with the parking area. And number 5
17 had to do with the providing prospective
18 purchasers with a copy of the Shasta ordinance 94-
19 2, with regard to agricultural timber use effects.

20 HEARING OFFICER BOUILLON: Are there any
21 other questions of this witness? Ms. Crockett.

22 MS. CROCKETT: In reviewing my notes and
23 trying to separate air and water out, I did miss
24 one question, if I may be permitted to ask it.

25 HEARING OFFICER BOUILLON: I don't know

1 if we'll permit the witness to answer it, but you
2 can ask it.

3 RECROSS-EXAMINATION

4 BY MS. CROCKETT:

5 Q In your testimony, Mr. Walker, you state
6 that there are sensitive land uses, and that there
7 are none within one mile or quarter-mile,
8 depending on transmission lines, of the plant. Is
9 agricultural land use considered a sensitive use?

10 A Could you point me to the portion of the
11 testimony, please.

12 Q Sensitive land uses within one mile of
13 the site are residence --

14 HEARING OFFICER BOUILLON: Ms. Crockett,
15 could you tell us what page you're looking at?

16 MS. CROCKETT: Oh, excuse me, page 85.
17 Third paragraph.

18 BY MS. CROCKETT:

19 Q Sensitive land uses within one mile of
20 the site are residence located in Johnson Park,
21 the closest of which are approximately one-half
22 mile away, and one single-family residence
23 approximately 1400 feet west of the site on Black
24 Ranch Road.

25 My question goes to the agricultural

1 land across the road and those crops. Are they
2 considered a sensitive land use?

3 A Not in the normal sense of sensitive.
4 Doesn't mean they couldn't have an impact. But
5 sensitive typically refers to impacts where humans
6 would be affected.

7 MS. CROCKETT: Thank you.

8 HEARING OFFICER BOUILLON: I believe
9 there are no further questions. Oh, I'm sorry,
10 before we do that, Mr. Ratliff.

11 Certainly.

12 MR. EVANS: We're talking about visual
13 impacts in this, aren't we, also?

14 HEARING OFFICER BOUILLON: No. That's
15 coming next.

16 MR. EVANS: That's next. Then I'll wait
17 until next time.

18 HEARING OFFICER BOUILLON: For the
19 record Mr. Evans had asked whether or not he could
20 ask a question based upon the visual impact of
21 this witness, and I explained to him that, in
22 fact, that topic will be coming up next. He'll be
23 given the opportunity to do so with the visual
24 impact witnesses.

25 So, given that, Mr. Ratliff, I

1 understand you have offered Mr. Walker's
2 testimony?

3 MR. RATLIFF: Yes.

4 HEARING OFFICER BOUILLON: Any
5 objections? It will be admitted.

6 You're excused, thank you, Mr. Walker.

7 MR. WALKER: Thank you.

8 HEARING OFFICER BOUILLON: Can I get
9 some estimates from the parties about how long
10 their respective witnesses might take, and how
11 long the cross-examination will be of them on
12 visual resources?

13 Let's start with the applicant.

14 MS. COTTLE: We have two witnesses for
15 visual resources. We don't have any questions for
16 the staff witness, and I understand there are no
17 other visual resource witnesses. So, I estimate
18 that our direct should take five minutes apiece.

19 HEARING OFFICER BOUILLON: Mr. Ratliff.

20 MR. RATLIFF: I think the direct, plus
21 the summary of the testimony, will take a little
22 over five minutes.

23 HEARING OFFICER BOUILLON: Do you have
24 any cross for anyone?

25 MR. RATLIFF: No.

1 HEARING OFFICER BOUILLON: Mr. Wolfe, do
2 you have any witness or cross?

3 MR. WOLFE: No.

4 HEARING OFFICER BOUILLON: Ms. Crockett?

5 MS. CROCKETT: I have no witness, but
6 there will be cross on the state's witness, as
7 well as -- or questions of the state witness and
8 the witness for Three Mountain.

9 HEARING OFFICER BOUILLON: I'm sorry,
10 how much?

11 MS. CROCKETT: Timewise?

12 HEARING OFFICER BOUILLON: Yes. Just
13 approximately.

14 MS. CROCKETT: Hopefully we could get it
15 done in 15, 20 minutes.

16 HEARING OFFICER BOUILLON: Both of them,
17 or for each?

18 MS. CROCKETT: I would hope a total.

19 HEARING OFFICER BOUILLON: Mr. Evans, do
20 you have just a few questions?

21 MR. EVANS: I have one question.

22 HEARING OFFICER BOUILLON: All right.

23 MR. RATLIFF: Commissioners, I have
24 overlooked the fact that we have two visual
25 resource witnesses, Joe Loyer is the staff witness

1 who addresses the plume. So to the extent that
2 we're talking about the plume analysis we have
3 another witness who probably has at least five
4 minutes of direct testimony, as well.

5 HEARING OFFICER BOUILLON: Five, you
6 said?

7 MR. RATLIFF: Yes.

8 HEARING OFFICER BOUILLON: Does that
9 extent your cross-examination, Ms. Crockett? Or
10 had you included that?

11 MS. CROCKETT: It was included.

12 HEARING OFFICER BOUILLON: Okay. We'd
13 like to attempt to finish this without a lunch
14 break if that doesn't meet any serious objections.
15 So could we take up the topic of visual resources
16 at this time. The applicant has witnesses.

17 MS. CROCKETT: Mr. Bouillon, may the
18 Burney Resource Group request about a five-minute
19 recess before we start this?

20 HEARING OFFICER BOUILLON: Certainly.

21 MS. CROCKETT: Thank you.

22 HEARING OFFICER BOUILLON: Five minutes.

23 (Brief recess.)

24 HEARING OFFICER BOUILLON: Back on the
25 record. Does the applicant have some witnesses?

1 Has the witness been sworn?

2 Whereupon,

3 MARSHA GAYLE

4 was called as a witness herein, and after first

5 having been duly sworn, was examined and testified

6 as follows:

7 DIRECT EXAMINATION

8 BY MS. COTTLE:

9 Q Would you please state your name for the
10 record?

11 A My name is Marsha Gayle.

12 Q And did you prepare the testimony on
13 visual resources, other than the cooling tower
14 plume analysis, that was submitted in this
15 proceeding by Three Mountain Power?

16 A Yes, I did.

17 Q Is that testimony true and correct to
18 the best of your knowledge?

19 A Yes, it is.

20 Q Do you have any corrections or
21 modifications to your testimony at this time?

22 A No.

23 Q Would you please briefly summarize that
24 testimony?

25 A Yes. My written testimony provides an

1 overview of the visual impact assessment that we
2 prepared for the project AFC. In addition, my
3 written testimony includes two graphic attachments
4 that would be new to the AFC graphic material.

5 Let me summarize the findings that we
6 made with respect to potential visual impacts
7 other than the plume.

8 Our analysis finds that overall the
9 project has been sited and designed in a manner
10 that takes advantage of visual screening provided
11 by the existing conifer tree buffer located along
12 the site's perimeter.

13 In addition, a 12-foot high berm planted
14 with trees will be installed as part of the
15 project to provide additional screening on the
16 east and west property lines.

17 Because of this existing tree buffer
18 condition, along with the planted berm, it's
19 anticipated that foreground views of the project
20 generally will be screened from public view.

21 Although generally the project will not
22 be highly visible from publicly accessible and
23 sensitive viewing locations, some elements of the
24 project will, however, be partially visible from
25 two sensitive viewing locations, the state route

1 299 corridor and the Vedder Road residential area.

2 And I'd like to speak to those visual
3 impacts briefly, one at a time.

4 First, state route 299, which is the
5 designated scenic corridor by Shasta County. As
6 viewed from state route 299 the project could
7 include minor visual effects on visual resources.
8 Although the project will generally not be
9 visible, motorists could perceive a passing
10 glimpse of the buildings or stacks through the
11 trees while traveling north or southbound adjacent
12 to the site.

13 Although potentially visible, it's
14 anticipated that the project will not
15 substantially alter the visual character of this
16 scenic corridor. If seen at all, the project will
17 be largely screened by the berm and conifer trees,
18 as well as the existing tree buffer.

19 And furthermore, the view will be brief
20 in duration, lasting less than several seconds.
21 Although the impact will not be significant,
22 because of the scenic corridor designation several
23 mitigation measures have been proposed in the AFC
24 and are included as conditions of approval.

25 After the recommended visual mitigation

1 measures are incorporated into the project, the
2 project's impact on views from state route 299
3 will be less than significant.

4 Second area of visual impact is from the
5 Vedder Road residential area. Again, overall the
6 visual changes that will occur as a result of
7 construction and operation will be minor as viewed
8 from the Vedder Road residential area.

9 And this was analyzed as key observation
10 point three in both the AFC document, as well as
11 the final staff assessment.

12 I'll review why these visual effects are
13 considered less than significant as seen from
14 Vedder Road. First, the Vedder Road residential
15 area is located more than a mile from the project
16 site. The number of affected viewers is
17 relatively small, approximately six residences.

18 I'd like to refer to the graphics
19 briefly if I could, that were attached to my
20 written testimony. Can I do that? Good. All
21 right.

22 First, there's a map that is a USGS map
23 detailed, combined with an aerial photo. And the
24 point of these graphics shows the relationship of
25 the Vedder Road residential area to the site in

1 terms of viewing distance. But most importantly I
2 think the aerial photo detail indicates that the
3 majority of the Vedder Road residences, and I
4 believe there are approximately 20 in total, the
5 majority of these are located in the forested
6 area.

7 Typical views from the residences
8 located in the forested area are screened toward
9 the project site, and we have a photo that
10 represents one such screened view. That is shown
11 on the second graphic attachment to my written
12 testimony as View-1. It's view from Vedder Road
13 residential area, view-1, basically showing the
14 typical amount of screening that's available from
15 the forested area.

16 And as we've indicated in the analysis
17 there are approximately six residences located at
18 the edge of the forest near the meadow. We have
19 prepared a visual simulation from a representative
20 view along this location which we consider to be
21 the worst case for visual impact purposes.

22 The visual simulation that we prepared
23 was included in the AFC as figure 6.6-8A and 6.6-
24 8B. A similar, but more panoramic, simulation is
25 included on the attachment, the second attachment,

1 and it indicates the panoramic view from Vedder
2 Road residential area.

3 The simulation illustrates the project's
4 appearance as seen from a portion of the road
5 situation near the edge of the meadow. As shown
6 in this image, the upper portion of the proposed
7 stack, and the upper portion of the turbine
8 building roof would be visible from this location.
9 It's shown -- yes, I believe you have it there --
10 it's shown there. And also, this is the
11 attachment, it's slightly larger, but this was the
12 attachment.

13 COMMISSIONER LAURIE: Don't worry about
14 facing me.

15 MS. GAYLE: Okay, I hope you can find
16 these graphics. They're, I think, quite
17 illustrative.

18 In any event, this second sheet has two
19 photos, one of which is panoramic, that supported
20 the written testimony. And you will notice in
21 that panoramic view that the same image appears
22 that was included in the AFC with a wider
23 panoramic that extends to the right or toward the
24 south.

25 Again, the visible project elements are

1 seen at a distance of over a mile. They would not
2 appear dominant in relationship to elements in the
3 existing surrounding landscape scene from this
4 location.

5 To some degree the structures could
6 contrast with the surrounding landscape in terms
7 of their form and color. Mitigation measures
8 designed to reduce the potential visual contrast
9 as seen from the Vedder Road area have been
10 incorporated into the project design.

11 Review of the visual simulation
12 indicates that the visual portion of the project
13 would neither substantially block a scenic vista
14 nor significantly alter the area's visual
15 character, again as seen from this worst case
16 location in the Vedder Road residential area.

17 To reduce the potential visual contrast
18 Three Mountain Power proposed a number of
19 mitigation measures and these show up in more
20 detail in the final staff assessment requirements.

21 In addition, we can anticipate that over
22 time some of the existing trees located along the
23 eastern edge of the pasture can be expected to
24 grow taller thus providing additional screening of
25 the project.

1 We conclude that after the recommended
2 visual mitigation measures are incorporated into
3 the project visual impact as seen from the Vedder
4 Road residential area will be less than
5 significant. The final staff assessment concurs
6 with this conclusion.

7 Q Thank you, Ms. Gayle. One question I
8 neglected to ask you was were your qualifications
9 submitted with your testimony?

10 A My qualifications were submitted, yes.

11 MS. COTTLE: And I meant to ask whether
12 anyone had any objections relating to those
13 witness qualifications?

14 Thank you. With that, the witness is
15 available for cross-examination.

16 HEARING OFFICER BOUILLON: Ms. Crockett,
17 you're the only one that indicated any questions
18 other than Mr. Evans, and he's after you.

19 MS. CROCKETT: Thank you.

20 CROSS-EXAMINATION

21 BY MS. CROCKETT:

22 Q Ms. Gayle, correct?

23 A Yes.

24 Q You have submitted a visual reference
25 for the Commissioners under number 4, and your

1 testimony, the view from the Vedder Road
2 residential area, is that correct?

3 A Yes.

4 Q For everyone's information that is the
5 filed testimony of Mr. Robert Murray, who is one
6 of the homeowners on the Meadow --

7 MS. COTTLE: Excuse me, may I ask is
8 this the testimony that was filed on the subject
9 of noise?

10 MS. CROCKETT: Yes, it is, but I've
11 checked with staff and the pictures that are in
12 there are legal to be used in this area according
13 to Mr. Ratliff.

14 MS. COTTLE: Well, I don't have a copy
15 of that. Do you have another copy I could look
16 at, please?

17 MS. CROCKETT: I will have Ms. Gayle --
18 I didn't bring an extra copy, and you are right, I
19 apologize because we don't really discuss noise.
20 I will have Ms. Gayle pass that to the
21 Commissioners, and then we'll bring it around.

22 BY MS. CROCKETT:

23 Q Ms. Gayle, how does that differ from
24 your representation --

25 MS. COTTLE: Actually, maybe I could

1 look on with --

2 BY MS. CROCKETT:

3 Q How does that differ from your
4 representation of the homeowners' view of the
5 project site?

6 A Let me back up, if I could, just for a
7 moment. In the interests of time and getting a
8 timely lunch break, I skipped over, omitted from
9 this oral testimony any reference to the
10 procedures and methods that we used to prepare our
11 analysis.

12 And I also did not include any summary
13 of the visual baseline or existing conditions.
14 And what I'd like to do is just before directly
15 answering your question, if I could, step back and
16 explain a bit about the photo documentation that
17 we conducted as part of our visual analysis.

18 Q I would --

19 A In it you'll -- in a moment, it does
20 answer your question. We prepared essentially a
21 visual assessment under California Environmental
22 Quality Act guidelines.

23 One of the things that CEQA requires us
24 to do is analyze the impacts on visual resources
25 as experienced by the public. So essentially the

1 photos that we included were generally shot from
2 publicly accessible vantage points, which is
3 consistent with CEQA.

4 I believe that the photo I'm looking at
5 was shot from a private residence.

6 Q That's correct.

7 A I don't know if it was shot from inside
8 a home, or the private yard area.

9 Q Is key observation point three the
10 Vedder Road residential area?

11 A Yes, it is.

12 Q Is the impact there, is it not to be on
13 the residents of that area?

14 A Yes.

15 Q Would it not be fair to assume that you
16 need to have a fair representation of the visual
17 impact the homeowners would sustain, as opposed to
18 a view from a road?

19 A Generally speaking, under CEQA, we do
20 not portray or depict visual impacts as seen from
21 a private residence.

22 Q Even though you are making the statement
23 that these will be the residents who will be
24 impacted by this visual change?

25 A We select vantage points that are

1 representative. And from that we do predict the
2 level of visual impact.

3 Q Would you describe to the Commissioners
4 the difference between the two pictures? The one
5 you submitted and the one that is taken from Mr.
6 Murray, one of ten residents who live on the
7 meadow? Can you see the power plant site clearly?
8 That would be where the plume is.

9 A You've got two photos here. One is
10 titled view of the valley; one is view of bald
11 eagle from house.

12 They're somewhat different. I would
13 need to know a little bit more about the camera
14 equipment. I don't know where these shot, for
15 example, with a 35 mm lens or a 125 mm lens. Are
16 we looking at what we normally see --

17 Q I don't want to burden the Committee
18 with time on perspective, otherwise I would get
19 into your simulations.

20 Is it accurate --

21 MS. COTTLE: Excuse me, I believe what
22 the witness is saying is that she does not know
23 how these pictures were taken. You're asking her
24 to evaluate them. So, I think it would be helpful
25 if you could answer the questions that she needs.

1 MS. CROCKETT: I think the question is
2 that the witness is worried about whether it is a
3 close-up or a distance shot or a panorama shot.
4 And my question would go to the heart of the
5 matter.

6 BY MS. CROCKETT:

7 Q Does it fairly represent --

8 MS. COTTLE: I believe your question was
9 what are the differences between these two
10 pictures.

11 HEARING OFFICER BOUILLON: Ms. Cottle,
12 let her finish the question. She seems to be
13 rephrasing the question, so let her finish it,
14 please.

15 BY MS. CROCKETT:

16 Q Does it fairly represent the view across
17 the meadow to the plant site?

18 A That's what this image shows, the view
19 across the meadow toward the plant.

20 Q Do you see any trees screening that
21 view?

22 A Yes, I believe I do.

23 Q Are they close to that picture?

24 A I'm sorry?

25 Q Do they shield the house from the view?

1 A I think they do. I may be having
2 trouble understanding what I'm looking at. I
3 believe I see the perimeter tree buffer here
4 separating the viewer from the plant site. I'm
5 looking at view A --

6 Q I don't -- you have my only copy.

7 A I confess, I'm guessing here a little
8 bit, or I'm speculating as to what I'm looking at.
9 I apologize if I'm not responding. I'm looking at
10 it and interpreting what I think I see.

11 MS. CROCKETT: Let me take those for a
12 moment and I'll take them to the podium, describe
13 what they represent, and then give them back to
14 the witness. Would that -- can we do it on the
15 overhead?

16 HEARING OFFICER BOUILLON: If it would
17 show up that would be the best way to do it.

18 MS. GAYLE: It might work there.
19 Unfortunately, there are images on both sides, so
20 when you project it it might --

21 (Pause.)

22 HEARING OFFICER BOUILLON: We've got a
23 roomful of engineers, maybe we can figure this
24 out.

25 (Laughter.)

1 HEARING OFFICER BOUILLON: Oh, that's
2 much better.

3 (Laughter.)

4 MS. CROCKETT: I'm very happy with that.

5 BY MS. CROCKETT:

6 Q Can you see that, Ms. Gayle?

7 MR. RATLIFF: Much better over here.

8 MS. CROCKETT: Could we have Ms. Gayle
9 come to the podium? Then she could see what we're
10 all directed at.

11 MS. GAYLE: Oh, that's better, I can see
12 it now.

13 BY MS. CROCKETT:

14 Q Can you see it? Okay. In the
15 foreground is the lawn of the Murray residence. I
16 do not know what the camera was, I'm going to
17 assume it's a 35 mm. I will also assume, from the
18 proportions, that it's not a panoramic or a zoom
19 lens, both of which I have run into in my
20 lifetime, and neither one is user friendly.

21 Now, this is the view from the Murray
22 household, one of the residents on the meadow. It
23 differs substantially from your submitted
24 residential view. Can you explain why?

25 A Again, I am unclear as to what lens was

1 used. The format, by the way, the format of the
2 photo refers to the film that was used. So
3 whether it's square or very linear, it's a
4 function of the film. We could be using 2-1/4
5 inch negative or panoramic or 33 mm. The shape of
6 the photo in no way refers to the lens that was
7 used, so that's not a clue for me.

8 The difference in this view, I would say
9 it would be helpful, as we have done with our
10 photo, to map the viewpoint location. It would be
11 helpful to see have we shifted east or west or
12 south in the Vedder Road residential area. It
13 would be helpful to know that, in other words
14 where the photo was taken on the ground.

15 Q I'm probably not making myself clear.
16 You state that most of the homes along the meadow
17 are shielded of view of the meadow by trees,
18 correct?

19 A What we stated is that most of the homes
20 in the Vedder Road residential area are situated
21 within the forest, and their views toward the
22 project are screened by foreground vegetation,
23 particularly by mature trees in the foreground.

24 Q And then you submitted number 1, under
25 exhibit 4, as your fair representation of most of

1 the homes on the meadow, and the view that they
2 have of the meadow, is that correct?

3 A View 1, the top photo, it's not a
4 panoramic, refers not to the homes that are
5 situated on the meadow, but those other homes that
6 are situated within the forest.

7 Q So I am understanding there's a slight
8 change in your emphasis on the impact of the view
9 for the families on the meadow, the six homes that
10 you stated?

11 A Not at all. Not at all. The top photo
12 refers to the other homes. To amplify the point
13 that there is a limited number of homes that have
14 this worst case view similar to what is shown in
15 the bottom photo, similar to what is shown in KOP-
16 3 in the AFC.

17 Nothing in the analysis has changed.
18 We've simply included an additional photograph to
19 illustrate those homes that are less affected
20 because they're situated in the forest. Does that
21 make sense?

22 Q That makes sense.

23 A Okay, I apologize for any confusion in
24 introducing this new photo. That was the intent.

25 Q Let me clarify one point before we move

1 on. The limited number of homes has never been
2 correctly stated. I've just sat here and
3 rewritten every home on the meadow. And that
4 limited number is ten.

5 Does that change your evaluation of the
6 impact? Ten families whose impact on their homes?

7 A It wouldn't change our essential
8 conclusion. We did field observation and
9 estimated the number of homes on the ground in the
10 field. We reviewed aerial photographs, such as
11 the one we've included here in a little detail, to
12 locate those homes that were not in the forested
13 area, but had exposed or open views toward the
14 project. And we estimated that. And we've always
15 indicated that the number was approximately six.

16 We also noted in the field that there
17 appear to be some out-buildings, such as barns or
18 perhaps shed structures, and they also show up on
19 the aerial photograph.

20 We've never insisted on six being a
21 precise number of residences.

22 Q Actually, in recounting, I made an
23 error. There's 11.

24 Why did you only submit a photo of the
25 view from the homes that would be in the forested

1 area and not a view from our photo representing
2 those view of those 11 homes on the meadow?

3 A Well, again, the photo that we used as
4 KOP-3, which appears in the AFC, was, we feel,
5 somewhat representative of those meadow homes. It
6 was shot with a 50 mm lens, which is the normal --

7 Q Right.

8 A -- view cone and perspective, as seen.
9 We again included a more panoramic view in our
10 written testimony to amplify on what that view
11 looks like as you turn your head or perhaps move
12 slightly. So that's the intent of including the
13 panoramic view.

14 I will state again that I believe KOP-3,
15 as we photographed it, is reasonably
16 representative of views from that area.

17 Q How large is KOP-3? A quarter of a mile
18 by a quarter of a mile? Half a mile by half a
19 mile?

20 A How large?

21 Q Um-hum.

22 A I'm not understanding the question.

23 Q You chose one particular spot to be
24 representative of KOP-3, is that correct?

25 A Yes, one viewpoint on the ground. Yes,

1 one view.

2 Q And due to a misunderstanding you meant
3 this to represent a view from the homes back in
4 the trees, not of the homes on the meadow?

5 A Now I'm confused.

6 Q You said that this actually, your
7 number, the view from the Vedder Road residential
8 area actually represents more the view from homes
9 in the trees more than the homes on the meadow?
10 Is that a correct paraphrasing of your statement?

11 A I'm becoming less clear on what we're
12 talking about. Are you looking at a particular
13 graphic that I could look at simultaneously?

14 Q I'm looking at your submitted view from
15 Vedder Road residential area that was submitted in
16 testimony.

17 A Okay, I have a larger version. Does it
18 look like this?

19 Q That's correct, the top one.

20 A Okay.

21 Q Top right.

22 A Okay. The top right, yes. The top
23 right is supplemental information that shows a
24 view from the forested area.

25 Q Where in your testimony do you clarify

1 that this is a representative view of homes in the
2 forested area primarily?

3 A Just one moment, I'll get a copy of my
4 written testimony here. I'm not sure if I have
5 the same page numbers. We have some headings on
6 our -- on my written testimony there's a heading
7 D, analysis of potential impacts: item 1 views
8 from state route 299; item 2, views from the
9 Vedder Road residential area.

10 Q Okay, this would be in your filed
11 testimony that Three Mountain submitted. Could
12 you give me a page number?

13 A On mine I don't know if I have the same
14 page numbers, as I say. It could be page 5 --

15 MS. COTTLE: Page 5.

16 MS. GAYLE: -- page 5 and 6. The bottom
17 of page 5, item 2, views from the Vedder Road
18 residential area.

19 MS. CROCKETT: I found it, thank you.

20 MS. GAYLE: Okay. And continuing on to
21 the top of page 6 we refer to this view.

22 BY MS. CROCKETT:

23 Q Since KOP-3 represents a residential
24 area, and that you feel that the view, those homes
25 that would be impacted represent a small amount of

1 that residential area, I would assume that you
2 know the size of that residential area. How many
3 homes are located in KOP-3, Ms. Gayle?

4 A KOP-3 represents approximately six
5 homes, the view of approximately six homes. And I
6 believe you've offered that it could be as many as
7 11 homes.

8 Q Have you been out to KOP-3, yourself,
9 personally?

10 A Yes, I have.

11 Q In actuality the Vedder Road residents
12 number over 25. All the homes that are along that
13 Vedder Road access.

14 Now, to have 11 of that 25 on the
15 meadow, does that change your impact from
16 insignificant to moderate or possibly substantial
17 if close to 50 percent of the homes in that
18 residential area are on that meadow, and that's
19 the view, as Mr. Murray has shown, that all those
20 homes on the meadow share?

21 A Well, let's see. Again, we have
22 indicated there are some 20 homes in the Vedder
23 Road residential area. We're not in disagreement
24 with you there.

25 We have approximated the number of homes

1 along the meadow, and it is that worst case
2 condition that KOP-3 reflects.

3 Now, as we analyze the impacts, and I
4 think this is where the visual simulation, itself,
5 is quite useful, we conclude that the overall
6 visual effects as seen from KOP-3 are relatively
7 minor for the reasons that I stated previously.

8 So, in terms of the analysis that we've
9 provided, we've described the change that would
10 occur. We've created an accurate and realistic
11 visual simulation to portray the appearance of the
12 project as seen from that location. And we've
13 concluded that, yes, the project would be
14 partially visible, but the visual impact would be
15 less than significant for the reasons that I
16 previously stated.

17 And I do believe that the visual
18 simulation we prepared is very illustrative of
19 those visual effects.

20 Q Are we talking about the panoramic view
21 from Vedder Road area that the AFC simulation that
22 you included in this same photo in your testimony
23 that's also the bottom picture here that's on the
24 screen?

25 A Yes.

1 MS. CROCKETT: Could staff show
2 Mr. Murray's picture again?

3 BY MS. CROCKETT:

4 Q Now, your simulation and Mr. Murray's
5 are quite different in the impact of a 10 megawatt
6 plant and the plume on the valley.

7 You're showing in your simulation a
8 panoramic view which tends to minimize the size of
9 things because of the angle of the lens, is that
10 correct?

11 A The panoramic view does tend to minimize
12 the vertical dimension.

13 Q Okay. We'll get into this in plume
14 analysis and it's already been entered into
15 evidence so I feel comfortable bringing it up at
16 this point, but it has been agreed by both staff
17 and your plume analysis expert that they're going
18 to evaluate the tree height at 150 feet
19 approximately, correct?

20 A You know, I'm really not appearing to
21 represent the analysis of the plume. So that's a
22 little bit outside of my scope and my oral
23 testimony, as well as my written.

24 MS. COTTLE: And I'm going to object to
25 any further questions on that subject from this

1 witness.

2 MS. CROCKETT: Okay.

3 BY MS. CROCKETT:

4 Q Do you feel qualified to make a visual
5 impact estimate on the plant, itself?

6 A Yes, that --

7 Q On this view?

8 A Well, I believe that's what I've been
9 speaking about for the last several minutes.

10 Q But we're in agreement there's
11 substantial differences on the views that you're
12 using to represent the impacts and the views that
13 I'm using to show what I feel is the homeowners'
14 representation of the view. We're definitely not
15 in agreement.

16 MS. COTTLE: Is that a question?

17 MS. CROCKETT: It is.

18 BY MS. CROCKETT:

19 Q Are we in agreement or are we in
20 disagreement, Ms. Gayle?

21 A What I can speak to is my comfort level
22 based on my expertise --

23 Q That'll be fine.

24 A -- KOP-3, as presented in the AFC, and I
25 would like to just note here that the panoramic

1 view attached to my written testimony was supplied
2 to provide additional information.

3 The original analysis is based on the
4 view that's highlighted here as less than half of
5 the whole view angle. It was taken with a 50 mm
6 lens, and that is the simulation view that stands
7 in the AFC as the original simulation view.

8 Q Continuing on with your impact, did you
9 interview any of the homeowners on the meadow
10 about the time spent in their home, the impact of
11 this view on their home? Did you note -- okay,
12 let me go, that will be question one.

13 A We did not interview any of the
14 homeowners. We did select this area for study and
15 we did specifically select KOP as the worst case
16 because we believe that residential viewers are
17 among the most sensitive to visual change.

18 Q Correct, I agree with you. Did you note
19 in your review of KOP-3 the orientation of those
20 homes on the meadow, where the front of the home,
21 the access to the home, is, and where the visual
22 living areas are oriented?

23 A We did not do a site-specific visual
24 analysis of any of the homes, nor did we have that
25 level of detailed information.

1 Q So, what you're saying is then you
2 really don't understand what the visual impacts
3 will be to those --

4 MS. COTTLE: I believe that's
5 argumentative.

6 HEARING OFFICER BOUILLON: Yeah, I think
7 that's argument, Ms. Crockett.

8 MS. CROCKETT: Thank you. Let me
9 rephrase that.

10 BY MS. CROCKETT:

11 Q You did not note the orientation of
12 these homes that you have made an evaluation on
13 visual impact, is that correct?

14 A Let me go back to the view that we
15 showed as KOP-3. It is a worst case view because,
16 as you will note looking at it, it orients
17 directly toward the plant. So it's a view near
18 the edge of the meadow that looks directly at the
19 plant. It doesn't look away from the plant.

20 So that any home that looks toward the
21 meadow and has a fairly direct view would have
22 similar orientation. I would say we did give
23 thought to trying to analyze the worst case for
24 the representative view.

25 Q Okay, and you're using the panorama as

1 your view of the worst case view, or are you using
2 the upper right-hand photo in your explanation?

3 A Neither. I was referring to figure --
4 in the AFC figure 6 -- can anyone help me out? I
5 think it's 6-8A and B, that's the view I'm
6 referring to.

7 Q Oh, good, I don't have the AFC with me.
8 The one time I didn't bring everything.

9 A Now with the lights turned down it may
10 not be useful. This is an exact replication at a
11 larger scale of KOP-3, the before, the after.
12 This is the 50 mm in the normal cone of vision
13 looking directly towards the plant. And this is
14 the simulation showing the visual impact of the
15 proposed facility.

16 Q We're all in agreement, that's a 500
17 megawatt plant, is that correct, Ms. Gayle?

18 A Yes.

19 Q The simulation?

20 A The simulation is based on topographic
21 and engineering drawings.

22 Q Okay.

23 MS. CROCKETT: If staff could show Mr.
24 Murray's photograph one more time. Please keep
25 that there.

1 BY MS. CROCKETT:

2 Q Since you felt that you could show the
3 impact of the plume, let me show you the impact of
4 the 10 megawatt plume in --

5 MS. COTTLE: Again, we're not talking
6 about the plume with this witness.

7 MS. GAYLE: Excuse me. Just to clarify,
8 the simulation does not show the plume.

9 BY MS. CROCKETT:

10 Q I thought you just pointed out -- oh,
11 you pointed -- I'm sorry, you pointed out the
12 plant site, is that correct? And the tree visible
13 just above the trees?

14 A That's correct, that's correct, the
15 plume is not shown in the simulation. This, as
16 you can see --

17 Q Right.

18 A -- the top photo is existing. If you're
19 looking at that, that's an existing element of the
20 sky, that's not a simulation.

21 Q Thank you. Back to your visual
22 evaluation, you did an evaluation on the impact of
23 the homeowners without going to the actual
24 viewsheds that they have, is that correct?

25 A Again, yes, just to restate what we did

1 do. We evaluated the entire Vedder Road
2 residential area as a sensitive viewing location.
3 The 20-plus homes. And selected a vantage point
4 that represents a worst case condition.

5 Q The final statement in your appraisal of
6 the viewshed is that it is low to moderate for the
7 homeowners, is that correct?

8 A No, we did not make that statement.

9 Q I may have my data mixed up. Could you
10 clarify what your final estimate for the
11 homeowners in that area will be?

12 A We narratively described what the change
13 would be, using the simulation as a tool. We
14 described the visual changes and we evaluated
15 those in terms of their level of impact. And we
16 concluded that they were minor changes, or minor
17 impacts.

18 And we then recommended mitigation
19 measures to further reduce those.

20 Q Which is the 12-foot berm and the
21 planting of more trees for cover, correct?

22 A Use of color, finishes, as well.

23 Q How old do you estimate the trees at the
24 east side of the meadow currently?

25 A I really don't know.

1 Q You have made the statement that they
2 will get larger and help shield the homeowners
3 from the plant. You have to expect some sort of
4 growth from them. Do you expect a 10 percent
5 growth, a 20 percent growth?

6 A I really couldn't say.

7 Q So that's just a guess that that will
8 shield the homeowners from that plant, is that
9 correct?

10 A I think our statement, let me find it
11 here, it was along the lines that we anticipate
12 the trees could get taller, in which case it would
13 provide some additional shielding.

14 Q Will the 12-foot berm shield the
15 homeowners from the view of the plant currently as
16 it's proposed?

17 A I believe the berm is designed to
18 address more the foreground view impacts. In
19 other words, foreground is certainly less than a
20 mile. Now, this viewing distance is over a mile
21 away. And so the berm would be less addressing
22 distant impacts or mid-range impacts, and more
23 addressing foreground visual impacts such as from
24 Black -- is it Black Ranch Road -- Black Ranch
25 Road.

1 Q And none of the homeowners live on Black
2 Ranch Road, the road of KOP view 3?

3 A Yes.

4 Q That makes a difference in their
5 viewshed, doesn't it?

6 A Well, again, I believe that in terms of
7 addressing those visual impacts, including the
8 visual simulation, we have described an evaluated
9 the visual effect.

10 Q You have described it as, on page 6 of
11 your testimony, that your impression is the
12 project's visual impacts on the Vedder Road
13 residential area will be less than significant.

14 MS. COTTLE: Is there a question there?

15 HEARING OFFICER BOUILLON: That's not a
16 question, Ms. Crockett.

17 MS. CROCKETT: No. I'm going back to
18 her statement that she had not stated that it was
19 a less than significant impact.

20 HEARING OFFICER BOUILLON: Don't help
21 her, don't argue for her or argue against her.
22 Ask her questions.

23 MS. CROCKETT: I was leading to a
24 question.

25 HEARING OFFICER BOUILLON: And I think

1 you've established your point that apparently your
2 photograph shows something different than her
3 photograph establishes. And if you want to put
4 your witness on to tell us what his photograph
5 shows, I think you can do that. But quit trying
6 to drag it out of this witness, because she has,
7 only today, seen that photograph.

8 MS. CROCKETT: Okay, unfortunately what
9 I was planning is Mr. Murray would have been here
10 to testify on noise. At this point I will ask one
11 other question, and then I will be finished with
12 this witness.

13 BY MS. CROCKETT:

14 Q How many different weather conditions --
15 how many times were you at the site on KOP-3, and
16 were the weather conditions varying?

17 A I was there twice.

18 Q Okay.

19 A And I would say the weather conditions
20 did vary.

21 Q Was there a visibility problem during
22 any one of those days?

23 A Visibility meaning?

24 Q Seeing the proposed plant site. Could
25 you see it from KOP-3 comfortably on both visits?

1 A With varying degrees of haze, yeah. Um-
2 hum.

3 Q Thank you.

4 MS. CROCKETT: No further questions.

5 HEARING OFFICER BOUILLON: Any redirect?

6 MS. COTTLE: Yes.

7 REDIRECT EXAMINATION

8 BY MS. COTTLE:

9 Q Ms. Gayle, I'd like to ask you a few
10 questions about this photo that Ms. Crockett has
11 asked you to look at.

12 Other than the statements that Ms.
13 Crockett has made today during her cross-
14 examination do you have any information about
15 where that photo was taken from?

16 A No, I have no information.

17 Q Do you have any information about what
18 kind of camera was used, or the other conditions
19 that you would need to know in order to evaluate
20 that photograph, other than what Ms. Crockett has
21 stated today?

22 A No, I have no information on that.

23 Q Is it your understanding that this photo
24 is intended to be -- or has been represented as
25 being taken from a mile away from the project

1 site?

2 A I would assume it was taken from over a
3 mile away from the site.

4 Q One more question about the photograph.
5 In this photograph can you see any of the existing
6 plant structures, the physical structures?

7 A I'm looking at something over there
8 right now, it's very poor quality, I can't really
9 see too much.

10 Q Okay.

11 A That does help, and I think I would just
12 need to scrutinize it in more detail to say
13 further what I would see in the photo. I'm not
14 quite prepared to do that from here.

15 Q And just to clarify, this is the first
16 time that you've seen this photograph?

17 A That's correct.

18 Q I'd like to ask you some questions about
19 Ms. Crockett's statement that there are 11
20 residences situated along the meadow.

21 What did you base your testimony earlier
22 on when you had testified that there are six
23 residences along the edge of the meadow in the
24 Vedder Road residential area?

25 A Again, just to be clear, we've always

1 indicated six as an approximate number. We've
2 never tried to indicate it precise. The work that
3 supports that is our field reconnaissance and
4 review of aerial photography, as well as USGS
5 mapping.

6 Q Are you aware -- strike that. To your
7 knowledge has any testimony been submitted in this
8 case, or any other materials been filed in this
9 case indicating that your estimate of six
10 residences is not correct?

11 A Not to my knowledge. The term
12 approximately six has been in the AFC and again in
13 the written testimony. This is the first time
14 I've heard anything different.

15 Q Okay. And just to clarify, exhibit 4
16 that's attached to your testimony, --

17 A Yes.

18 Q -- view 1 on that exhibit, --

19 A Yes.

20 Q -- is it correct that that is the view
21 from the residential area that has forest -- that
22 is shielded by forestry in the foreground, is that
23 correct?

24 A That's correct. It's simply a
25 representative photo of the less affected

1 residential area that's situated within the
2 forest. And you will note on that graphic we have
3 a viewpoint map. It's view 1. So it pulls back
4 from the edge of the meadow.

5 Q And is it correct that this is not
6 intended to represent views from homes situated
7 along the meadow?

8 A That's correct.

9 Q And therefore is this the simulation or
10 any indication of the view from KOP-3? This view
11 1, is that part of KOP-3?

12 A No, not at all. And, again, I believe
13 on page 5 and 6 of the written testimony we've
14 tried to be very specific about what view 1
15 represents versus what view 2 represents, in the
16 lower view.

17 And I had hoped it was clear in the
18 written testimony.

19 Q Okay, I'll just ask you one more
20 question. View 2 on the same exhibit 4, is it
21 correct that that is the visual simulation from
22 KOP-3 which are the approximately six residences
23 that you believe will be most affected visually by
24 the project?

25 A Could you just --

1 Q I'm sorry.

2 A -- repeat that?

3 Q Maybe I'll ask it a different way.

4 Could you just describe one more time what view 2
5 on exhibit 4 is intended to represent?

6 A Yes. View 2 incorporates the original
7 KOP-3 view that was shown as a before-and-after
8 simulation image in the AFC. I believe it was
9 figure 6-A and B -- 6-8A and B.

10 It incorporates that view with a wider
11 panoramic view that looks further to the south to
12 introduce more of the visual context of this
13 sensitive viewing location.

14 MS. COTTLE: Thank you, I have no
15 further questions.

16 HEARING OFFICER BOUILLON: Ms. Crockett,
17 do you have any recross directed to the redirect?

18 MS. CROCKETT: Yes, thank you.

19 HEARING OFFICER BOUILLON: Please don't
20 ask any questions about where the pictures are
21 taken from. I'm sure --

22 MS. CROCKETT: I promise.

23 HEARING OFFICER BOUILLON: -- the
24 Committee, by this point, fully understands that.

25 //

1 RECROSS-EXAMINATION

2 BY MS. CROCKETT:

3 Q In Ms. Cottle's comment about whether or
4 not you can see the plant from that picture, is it
5 not true that the new plant will be substantially
6 larger than the current plant?

7 A In terms of height, the existing boiler
8 building I believe is about 88 feet tall, and the
9 existing stacks are about 125 feet.

10 The new turbine building would be about
11 104 feet tall, and the new stacks would be about
12 140 feet tall.

13 Yes, it would definitely be taller.

14 Q So granted at this point Burney Mountain
15 Power is not that visible, and as you had stated
16 earlier, parts of the new proposed project would
17 be visible, is that correct?

18 A Yes.

19 MS. CROCKETT: Thank you.

20 HEARING OFFICER BOUILLON: All right,
21 there being no further questions, do you wish to
22 offer -- oh, I'm sorry. You said you'd get my
23 attention. Then you needed help.

24 MR. EVANS: Shall I speak this way,
25 or --

1 HEARING OFFICER BOUILLON: If you could
2 get over there to where you could reach a
3 microphone, please, for the record. I'm speaking
4 to Mr. Evans who has some questions, and I'm not
5 sure that the record could pick up his voice.

6 MR. EVANS: I'm not even sure it's
7 supposed to be asked, but anyway.

8 CROSS-EXAMINATION

9 BY MR. EVANS:

10 Q In the AFC -- I have to apologize for
11 being very poorly prepared. I really didn't
12 anticipate asking any questions today -- but in
13 the AFC you have what's known as a key observation
14 point number 2.

15 I don't have a book to tell anybody what
16 it is, but anyway --

17 A I have one here if you'd like to refer
18 to it.

19 Q All right, well, can we work off of
20 yours and --

21 A Sure.

22 Q Okay. Key observation point number 2,
23 which is a --

24 A Yes, um-hum.

25 Q -- it's a view of the McLeod River

1 Railroad I understand?

2 A Yes, that's correct.

3 Q All right. Now, you state that there
4 will be no impact from that view. But the same
5 day I received that information from you people, I
6 also received a notice from the McLeod River
7 Railroad that they were going to run a tourist
8 exhibition train three times next summer, and it's
9 going to come right up that track.

10 And I'm sure that the people that are on
11 that train that want to see a nice view aren't
12 going to appreciate a power plant, I don't think.

13 How do you explain that, or do you take
14 it into consideration?

15 A Well, we actually did take that view
16 into consideration, and the AFC includes a visual
17 simulation showing the appearance of the project
18 from the railroad corridor.

19 I have a version of that with me, but if
20 you notice the simulation in the AFC you would see
21 the before and after, and the visual change that
22 would occur.

23 Now, as you probably know, there's an
24 existing transmission line that runs up that
25 corridor at present. Some portion of the, I

1 believe the substation, would be seen from the
2 railroad.

3 And, again, the visual effects, the
4 project would be somewhat visible. It wouldn't
5 substantially alter the visual character as seen
6 from the rail corridor.

7 And I think the CEC Staff actually
8 pointed out that this viewpoint that is now on the
9 screen is not of particular interest to the public
10 as far as visual impact. It's barely used at all.
11 It's not accessible by foot, by car. There's not
12 frequent rail use of the line.

13 So, in terms of the number of affected
14 viewers, not to mention the view, itself, would be
15 relatively brief in duration as the train rolls by
16 the site, we did conclude that the visual impacts
17 would be less than significant.

18 Q Okay. Now, also you say this plant will
19 have no impact on highway 299.

20 A Excuse me, we didn't say that. We
21 didn't say it would have no impact.

22 Q Well, a small impact.

23 A Minor visual effects.

24 Q A little impact. I'm not going to argue
25 with you.

1 A Okay.

2 Q Now, were you in Burney on January the
3 7th, the year 2000, at approximately 7:00 in the
4 morning?

5 A No, I was not.

6 Q Okay. The temperature at that time was
7 around 20 degrees; there was a very very low
8 inversion layer. In fact, it was so low that I
9 almost ran into the back-end of a hay truck.

10 Now, how do you claim that that's not an
11 impact on 299?

12 A I wonder, are you referring to the
13 plume?

14 Q Well, whatever you call it, the water
15 coming across the road. It was just short of
16 being Burney Falls is what it was.

17 A I'm afraid I'm going to have to stay out
18 of this one because there's another expert witness
19 who will be discussing the effects of the plume.

20 MS. COTTLE: And I would point out,
21 also, if you'd like to ask that question you can
22 ask it of our witness Ken Richmond, when he takes
23 the stand.

24 MR. EVANS: Okay, whatever. I'm just
25 trying to get information is all.

1 BY MR. EVANS:

2 Q Now, this is one last question and this
3 is strictly, I don't even know what the word is to
4 describe it, how do you evaluate visual impact?
5 In other words, if I had a Van Gogh hanging here,
6 and I put a transparency over it of that power
7 plant or whatever that thing is up on the wall,
8 how would you make a decision what it does to Van
9 Gogh?

10 A Okay. That's a very difficult question
11 to answer quickly, but I'll try.

12 Essentially what we're looking at in
13 visual impact assessment is the visual change that
14 would occur from the existing visual conditions to
15 the post-project conditions, if you will.

16 And one of the techniques, the tools we
17 use is the visual simulation, the before-and-after
18 images that we included.

19 In the case of Van Gogh, I don't think
20 it's a particularly useful example of doing
21 environmental impact assessment for visual change.
22 I think we have to restrict ourselves to things in
23 the environment, and agree that this is not a
24 matter of taste, whether we like red or blue or
25 black or white, but again using some accepted

1 methods and criteria for evaluating the changes
2 that would occur.

3 Things like visual contrast in terms of
4 line and color, visual contrast in terms of scale.
5 CEQA gives us a very effective criteria in looking
6 at view blockage. Do we have a scenic vista that
7 would be affected by view blockage. Those kinds
8 of things.

9 So we do use accepted professional
10 methods and criteria. And we try to stay in the
11 realm of facts and objectivity to the greatest
12 extent possible.

13 But that's a very quick answer to what I
14 think is a very complicated question. I'm not
15 sure if it addresses your concern or not.

16 MR. EVANS: Well, okay, thank you very
17 much, and that's all.

18 HEARING OFFICER BOUILLON: Redirect
19 based on that?

20 MS. COTTLE: I don't have any redirect.

21 HEARING OFFICER BOUILLON: Do you have
22 testimony to offer?

23 MS. COTTLE: Yes, I'd like to offer Ms.
24 Gayle's direct testimony, as well as section 6.6
25 of the application for certification to be moved

1 into the record at this time.

2 HEARING OFFICER BOUILLON: Any
3 objection? It will be admitted.

4 MS. COTTLE: Thank you.

5 HEARING OFFICER BOUILLON: You are
6 excused, thank you very much.

7 Well, that was a very long 20 minutes.

8 (Laughter.)

9 HEARING OFFICER BOUILLON: Does the
10 applicant have other witnesses they can put on at
11 this time?

12 MS. COTTLE: We have one other visual
13 resources witness.

14 HEARING OFFICER BOUILLON: You do?

15 MS. COTTLE: Yes.

16 HEARING OFFICER BOUILLON: Proceed.

17 MS. COTTLE: Ken Richmond.

18 Whereupon,

19 KEN RICHMOND

20 was called as a witness herein, and after first
21 having been duly sworn, was examined and testified
22 as follows:

23 DIRECT EXAMINATION

24 BY MS. COTTLE:

25 Q Please state your name for the record.

1 A Ken Richmond.

2 Q Did you prepare the testimony on
3 potential visual impacts from cooling tower plumes
4 that was submitted in this proceeding by Three
5 Mountain Power?

6 A Yes, I did.

7 Q And were your qualifications included
8 with that testimony?

9 A Yes, they were.

10 MS. COTTLE: I'd like to ask that Mr.
11 Richmond's qualifications be stipulated to by the
12 parties.

13 HEARING OFFICER BOUILLON: That's fine.

14 BY MS. COTTLE:

15 Q Mr. Richmond, is your testimony true and
16 correct to the best of your knowledge?

17 A Yes, it is.

18 Q And do you have corrections or
19 modifications to your testimony at this time?

20 A Yes. The response to the staff data
21 request 39 included several tables. Tables 2, 3
22 and 4 were in the final section of this document
23 were submitted in error. They're not the tables I
24 relied upon in my testimony or analysis.

25 Q And, Mr. Richmond, you're referring to

1 CEC Staff data request 39, which was attached as
2 exhibit 2 to your testimony, is that correct?

3 A That's correct.

4 Q On March 3rd Three Mountain Power filed
5 errata to your testimony. Do you have a copy of
6 that errata before you?

7 A Yes.

8 Q And the errata consisted of three tables
9 which were labeled table 2, table 3 and table 4.
10 Are the tables submitted in the errata the tables
11 that should have been submitted in a response to
12 CEC Staff data request 39?

13 A Yes.

14 Q And are those the tables, or the data in
15 them, was that the data that you relied on in
16 preparing your analysis of the cooling tower
17 plumes for the Three Mountain Power Project?

18 A That was a portion of it, yes.

19 Q And did the tables that were submitted
20 as errata to your testimony change the analysis or
21 conclusions in your prefiled testimony in any way?

22 A No.

23 Q Thank you, Mr. Richmond.

24 MS. COTTLE: I don't have any further
25 questions. I would like to have the errata that

1 was submitted on March 3, 2000 marked as an
2 exhibit.

3 HEARING OFFICER BOUILLON: All right.
4 That will be number 60.

5 MS. COTTLE: Thank you. The witness is
6 now available for cross-examination.

7 HEARING OFFICER BOUILLON: Does staff
8 have any questions?

9 MR. RATLIFF: No.

10 HEARING OFFICER BOUILLON: Mr. Wolfe?

11 MS. COTTLE: I have extra copies if
12 you'd like a couple.

13 MS. CROCKETT: Thank you.

14 HEARING OFFICER BOUILLON: Ms. Crockett?

15 MS. CROCKETT: Yes, I have a few
16 questions, thank you.

17 CROSS-EXAMINATION

18 BY MS. CROCKETT:

19 Q Good afternoon.

20 A Hello.

21 Q You state on page 2 of your testimony,
22 Mr. Richmond, that you are basing your plume
23 analysis on the MED station data collected at
24 Brush Mountain during 1995.

25 A That's correct.

1 Q Why was 1995 used?

2 A It was provided to me prior to the
3 analysis. Since it was used in air quality
4 analysis it was provided before the analysis that
5 go into our plume, so we have one data set used
6 for both analyses.

7 Q Does this MED station give you daily
8 data that's collectable?

9 A It reports hourly data, yes.

10 Q Was there 1998 data available?

11 A I believe there is 1998 data available.

12 Q Can you explain why 1995 was chosen?

13 A No, I can't.

14 Q Do you feel it's representative of the
15 data?

16 A I have looked at some of the other data
17 and 1995 is representative of the data.

18 Q Are you aware of the EPA's prevention of
19 significant deterioration document, their ambient
20 guideline, monitoring guidelines?

21 MS. COTTLE: Objection. I just want to
22 make clear from the outset that any questions that
23 are directed to the MED data and the subject of
24 PSD requirements has been determined to be
25 addressed in part two of this hearing.

1 And this witness is not testifying to
2 any air quality impacts or anything that has to do
3 with the PSD program. And I'm going to object to
4 any questions on that subject line.

5 HEARING OFFICER BOUILLON: That's
6 correct, I believe Ms. Crockett understands that.

7 MS. CROCKETT: I'm thinking.

8 BY MS. CROCKETT:

9 Q Why would 1995 data be used, knowing
10 that there could be a question raised about the
11 time of that data?

12 HEARING OFFICER BOUILLON: Ms. Crockett,
13 I'm going to object, myself, to that question.

14 MS. CROCKETT: Okay.

15 HEARING OFFICER BOUILLON: He's already
16 said he didn't know why it was used.

17 MS. CROCKETT: Okay, thank you.

18 BY MS. CROCKETT:

19 Q What fields were used from that data to
20 input into your SACTI program?

21 A Wind speed, wind direction, temperature,
22 relative humidity.

23 Q And you mentioned wind speed at the
24 Redding Airport. Why was that used?

25 A Wind speed at what airport did you

1 mention --

2 Q The Redding Airport.

3 A We didn't use any wind speed at the
4 Redding Airport.

5 Q That may have been a mistake, I may
6 stand corrected on that. Okay, I'm sorry.

7 You mentioned in your plume impact that
8 there is a view of the Sierra Pacific plume and
9 the Big Valley Mill plume, is that correct, or is
10 that from Ms. Gayle's testimony?

11 A I don't recall mentioning that.

12 Q Okay. What is the evaluation in your
13 tables of the average height of the plume for how
14 much percentage of the year? The average height
15 of the plume?

16 A From the top of the tower typically
17 during the daytime it would be about 40 meters
18 above the top of the tower.

19 Q 120 feet?

20 A Roughly, yes.

21 Q You mention --

22 MS. CROCKETT: Are mixing heights and
23 dispersion going to be phase two?

24 HEARING OFFICER BOUILLON: Excuse me, I
25 couldn't hear you, Ms. Crockett.

1 MS. CROCKETT: Are mixing heights and
2 dispersion going to be an area of phase two? This
3 will be under plume analysis.

4 MS. COTTLE: I guess I'm not sure what
5 the question is. I'd have to hear the question to
6 know whether it was relevant to the subject area.

7 MS. CROCKETT: At the bottom of page 2
8 Mr. Richmond mentions dispersion modeling and
9 assessment for the project, and the twice daily
10 mixing heights.

11 MS. COTTLE: If you have a question
12 about something in his direct testimony I don't
13 have an objection.

14 MR. RICHMOND: The mixing heights were
15 -- the same mixing heights that were used in air
16 quality dispersion analysis are also input into
17 the SACTI model, if that's your question.

18 BY MS. CROCKETT:

19 Q What are those mixing heights?

20 A I believe they're based on Medford upper
21 air data, but I didn't prepare the data set, it
22 was given to me. So that's second-hand.

23 Q How often will this 120-foot plume be
24 visible during the year? You mention long periods
25 of -- during periods of fog and low overcast.

1 A Well, if it's foggy out, I would say
2 that you probably wouldn't see the plume unless
3 you were standing right next to it.

4 If it was a nice clear day, early in the
5 morning, with a bright, blue sky, I'd say you'd
6 see it.

7 Q You mentioned the droplet size in the
8 dispersion modeling, is that correct?

9 A I don't believe I do.

10 MS. CROCKETT: I'm batting a thousand on
11 this --

12 MR. RICHMOND: If you can refer me to
13 it.

14 BY MS. CROCKETT:

15 Q Okay. I can't find it right this
16 moment. But, how often do you feel a 750-foot
17 plume would be visible?

18 A Do you mean high or lengthwise?

19 Q High, above the stack.

20 A 750 feet, so let's say roughly just pick
21 a number, 300 meters high, during the day a
22 condensed plume might reach that height say 14
23 percent of the time, maybe 20 percent of the time.
24 That's just the condensed plume. That doesn't
25 mean you'd be able to see it or not. If there

1 were clouds overhead or fog, your view is blocked,
2 you wouldn't see it.

3 From all the predictions that I
4 performed just say when the plume is condensed,
5 not when it is visible.

6 Q For clarification could we show this
7 picture number 1 that we've been discussing again?

8 A Surely.

9 Q Do we need to turn the lights down so
10 you can see it more clearly?

11 A I looked at it quite awhile.

12 Q Okay. How much of that plume is
13 condensed?

14 A How much of the plume is condensed?

15 Q Of the plume in that picture is
16 considered condensed.

17 A The condensed part is the portion that
18 appears like cloud.

19 Q So from the top of the trees till it
20 dissipates is considered a condensed plume?

21 A Yes.

22 Q How high would you estimate that plume?

23 A I have no way of knowing.

24 Q Are you familiar with a caliper?

25 A A caliper?

1 Q Um-hum.

2 A In what context? For measuring distance
3 on a photograph or a map or something?

4 Q Yes.

5 A Yes.

6 Q Would you like to caliper that out and
7 give us an estimation?

8 HEARING OFFICER BOUILLON: I'm going to
9 strike that question, Ms. Crockett. I don't think
10 there's any foundation laid either for his ability
11 to do so, or the accuracy of the photograph.

12 MS. CROCKETT: Thank you.

13 BY MS. CROCKETT:

14 Q In your plume analysis you state that
15 for the sake of consistency that you will evaluate
16 the trees at 150 feet in height, is that correct?

17 A I didn't mention anything about the
18 trees. Perhaps you're referring to the staff
19 assessment.

20 Q I'm sorry, thank you, the staff
21 assessment. Would you be comfortable with staff's
22 assessment of that?

23 A Of the height of the trees as being 150
24 feet?

25 Q Um-hum.

1 A Sounds reasonable.

2 Q And we would estimate, would you be
3 willing to look at the picture and give an
4 estimate of approximately twice the tree height
5 above the trees, or --

6 MS. COTTLE: Excuse me.

7 HEARING OFFICER BOUILLON: Excuse me,
8 Ms. Crocket, are you trying to get him to estimate
9 the height of that plume based on the height of
10 the trees?

11 I'm not going to let him do that.

12 MS. CROCKETT: Okay. Thank you.

13 BY MS. CROCKETT:

14 Q You mention in your testimony that wind
15 speeds were coded as calm in the Brush Mountain
16 data set, relatively frequently 15 percent.

17 A Yes, ma'am.

18 Q Are you comfortable with that large
19 percentage of data as coded as calm?

20 A I was surprised it was so large.

21 Q What is the normal?

22 A Depends upon your situation. I've seen
23 places that have over 50 percent calm. If the
24 anemometer is a poor anemometer. I've also seen
25 places that are very windy that have almost no

1 calms.

2 Q So the quality of the anemometer is very
3 important?

4 A For determining how many calms there
5 are?

6 Q Um-hum.

7 A Calm is just an abstract term. If
8 you're referring to a specific wind speed it is
9 less than, then an anemometer is important. For
10 example, if you say anything less than 1
11 meter/second is calm, obviously the quality of
12 your anemometer is important.

13 However, it's a different anemometer
14 than if you're talking about is the wind speed
15 less than a tenth of a meter/second and you're
16 calling that calm.

17 So, calm, you need to talk about wind
18 speed, not just calms. Calms, in my context, was,
19 I believe, a mile per hour.

20 Q Can an anemometer be set within a
21 specific range, or is it just due to how the
22 instrument is initially manufactured that it will
23 register? Or are there different types of
24 anemometers?

25 A There are different types of

1 anemometers. Several of them -- you know, depends
2 on how you reduce the data, for example. And
3 anemometer may be more sensitive, but you may say
4 anything less than 1 meter/second is calm. Even
5 though the anemometer can detect it.

6 But, yes, so it's a function of both the
7 quality of the anemometer and how the data's
8 reduced.

9 Q Are there differences in the anemometers
10 used for air quality versus CDF Forest station,
11 anemometers, or are they pretty much the same?

12 MS. COTTLE: I think we're venturing
13 down that path again with this question that we're
14 not supposed to be venturing down.

15 HEARING OFFICER BOUILLON: I'm sorry?

16 MS. COTTLE: She was asking questions
17 about purposes of anemometers for air quality
18 versus other purposes, and I --

19 MS. CROCKETT: Mr. Richmond is
20 testifying about the periods of calm, the periods
21 of fog or precipitation, and I think that's
22 dependent on the anemometer readings.

23 His data is dependent on reading this --
24 his report is dependent on reading this data, and
25 he has to be comfortable with where his data is

1 coming from.

2 And that's why I'm trying to get this
3 point for the plume analysis.

4 MS. COTTLE: Perhaps you can ask your
5 question again.

6 HEARING OFFICER BOUILLON: From what you
7 just said I don't think your original question was
8 designed to get there. So, if you want to try
9 again?

10 BY MS. CROCKETT:

11 Q Mr. Richmond, do you feel that the data
12 supplied to you indicated equipment that
13 correctly -- or excuse me, strike that -- was
14 sensitive enough to give you accurate readings for
15 your database?

16 A I have no reason to believe it wasn't
17 sensitive enough.

18 MS. CROCKETT: I have no more questions
19 at this time, thank you.

20 HEARING OFFICER BOUILLON: Any redirect?

21 MS. COTTLE: No.

22 HEARING OFFICER BOUILLON: All right.

23 Mr. Evans, do you have any questions of this
24 witness?

25 MR. EVANS: I just wanted to ask about

1 it being so foggy on 299 that I couldn't see --

2 HEARING OFFICER BOUILLON: Excuse me,
3 Mr. Evans. So we get you on the record you're
4 going to have to sit a little closer to a
5 microphone.

6 CROSS-EXAMINATION

7 BY MR. EVANS:

8 Q On January 7th of this year the fog
9 across 299 was so severe that I very nearly ran
10 into the rear end of a hay truck. And if you want
11 a collaborating witness, my wife is sitting right
12 up there, and boy, she's told me about that a
13 hundred times.

14 But, anyway, how or what method do you
15 plan on using to keep that fog off of the highway?
16 It's actually a very severe safety hazard.

17 I can tell you what the conditions were
18 that day. The temperature was 20 degrees; there
19 was an inversion layer that started about road
20 height and kept on up for about 100 feet. And yet
21 it was -- the conditions were terrible.

22 Now, can --

23 A Would you like me to speculate?

24 Q Speculation would be interesting, yes.

25 HEARING OFFICER BOUILLON: No, I

1 wouldn't like him to speculate.

2 MR. EVANS: You wouldn't like that,
3 well, I --

4 HEARING OFFICER BOUILLON: Let me try to
5 rephrase the question for you. Are you trying to
6 ask him what effect that plume is going to have
7 when an inversion layer exists on the road?

8 MR. EVANS: Yeah, that sounds
9 reasonable.

10 HEARING OFFICER BOUILLON: What would be
11 the effect of the plume when an inversion layer
12 exists in Burney Valley?

13 MR. RICHMOND: Well, the -- although I
14 wasn't specifically asked to look at plume
15 fogging, that is one of the outputs of the model
16 that I run.

17 The model predicts how often the plume
18 would actually touch down, for example, on the
19 ground. In order for that to occur, like you say,
20 it has to be pretty cold out, and there has to be
21 a mechanism for bringing it to the ground.

22 Usually that mechanism it has to be
23 pretty windy, because there's buoyancy associated
24 with the plume, but also like you mentioned, there
25 could be a really low level inversion or some

1 vertical barrier that could restrict the plume
2 from mixing vertically. And if the road's a
3 little bit elevated. Those are conditions that
4 could lead to fogging on the road.

5 Those were looked at in the model that I
6 ran and almost all the fogging occurs right within
7 the site boundary. And, as I recall, on the road
8 the plume typically touched down less than an hour
9 per year in the simulations that I performed.

10 BY MR. EVANS:

11 Q This has happened twice that I know of,
12 once on the 7th, and I believe again on the 18th,
13 but I wouldn't swear to that date.

14 A Well, I think you're referring to the
15 existing cooling tower that's there, and I would
16 care to speak to its effects. But the cooling
17 tower that I simulated is quite a bit further away
18 from the road, I believe, than that cooling tower.
19 And I can only speak to the cooling tower that I
20 simulated.

21 But we did examine plume fogging. It
22 does occur, for example, for a couple hours per
23 year. Most of the time the cooling tower is
24 sufficiently distant from the road that the
25 fogging occurred within the project boundary.

1 But, yes, there were a few hours that it
2 occurred on the road.

3 Q There's nothing that you can do to
4 alleviate this situation like, I don't know,
5 installing a big fan or something?

6 A Well, the tower that's being used is a
7 much more efficient, and loses a lot less water,
8 for example, than the existing tower that's there.
9 So it's a much more modern tower, but it's a much
10 larger tower.

11 So, I'm not an engineer, I wouldn't know
12 how to mitigate that particular impact.

13 MR. EVANS: Okay, that's all.

14 HEARING OFFICER BOUILLON: Thank you,
15 Mr. Evans. Any redirect?

16 MS. COTTLE: I don't have any redirect.

17 HEARING OFFICER BOUILLON: All right, do
18 you want to offer his evidence?

19 MS. COTTLE: Yes, I'd like to offer the
20 direct testimony of Mr. Richmond, as well as the
21 errata to his testimony, which has been marked as
22 exhibit 60.

23 HEARING OFFICER BOUILLON: Any
24 objections?

25 MS. CROCKETT: Yes.

1 HEARING OFFICER BOUILLON: All right.

2 MS. CROCKETT: The Burney Resources
3 Group objects. It would like to strike all
4 testimony dealing with plume evaluation and
5 dispersion modeling since the MED data comes from
6 Brush Mountain, and that has to be validated. And
7 it has not yet.

8 And we're assuming evidence being put
9 into -- or testimony being put into evidence, it
10 is not substantiated yet. We haven't had a ruling
11 on the MED data.

12 And everything that Mr. Richmond is
13 doing with his data set comes from Brush Mountain.

14 MS. COTTLE: The insinuation I believe
15 Ms. Crockett is making is that this data has to be
16 evaluated in terms of the PSD requirements for
17 purposes of the plume analysis. And that's simply
18 not correct.

19 Any concern she may have about the MED
20 data and the PSD requirements will be addressed in
21 the air quality portion of this proceeding.

22 However, the PSD requirements aren't
23 applicable in this subject area. And therefore we
24 believe that Mr. Richmond's testimony should be
25 admitted, and that there's no evidence suggesting

1 that it's not valid.

2 HEARING OFFICER BOUILLON: The ruling of
3 the Committee is that the testimony will be
4 admitted. That any question as to the validity of
5 the MED data on which his testimony is based would
6 go to the weight of his testimony and not to the
7 admissibility of it.

8 And, that MED data has not been ruled on
9 as yet.

10 MS. CROCKETT: Could you clarify what
11 that means by on the weight of his testimony
12 versus the MED data. I'm not quite clear.

13 HEARING OFFICER BOUILLON: I can give
14 you an example completely unrelated to this case.

15 MS. CROCKETT: Fine.

16 HEARING OFFICER BOUILLON: If a man
17 stands up and testifies that I saw the light and
18 the light was green. That is admissible
19 testimony.

20 MS. CROCKETT: Okay.

21 HEARING OFFICER BOUILLON: If somebody
22 after him gets up and says, that man's lying, and
23 offer medical proof of that fact. Well, that
24 testimony was admitted, but it doesn't get very
25 much weight.

1 MS. CROCKETT: Thank you.

2 HEARING OFFICER BOUILLON: You're
3 excused, thank you.

4 Ms. Crockett, do you have any witnesses
5 that will testify that Mr. Richmond is blind?

6 (Laughter.)

7 MS. CROCKETT: I will gladly wait for
8 the MED data to be evaluated, and then maybe it
9 won't be --

10 HEARING OFFICER BOUILLON: All right,
11 does the applicant have any more witnesses on --

12 MS. COTTLE: No, we do not.

13 HEARING OFFICER BOUILLON: All right.
14 Mr. Ratliff, do you have a witness?

15 MR. RATLIFF: Yes, I have two witnesses.
16 My preference would be to put them on as a panel
17 if that's agreeable, and then have them summarize
18 their testimony separately. And then answer any
19 cross-examination questions collectively. I think
20 it might go faster that way.

21 I do ask if you prefer to do that now or
22 after a break?

23 PRESIDING MEMBER KEESE: Well, let me
24 just ask a question. Since 30 minutes became an
25 hour and 20, where do we think we are?

1 MR. RATLIFF: Well, I have --

2 PRESIDING MEMBER KEESE: And I hate to
3 keep this group here without any sustenance,
4 but --

5 MR. RATLIFF: I think that we can
6 anticipate -- I don't know what questions will be
7 asked. I assume Ms. Crockett has, as well she
8 should, cross-examination of these witnesses, and
9 that may take some time.

10 And so I wouldn't want to guess that
11 we're going to be done in less than an hour.

12 PRESIDING MEMBER KEESE: Okay, we'll
13 take a break for an hour. We'll come back at
14 2:20.

15 (Whereupon, at 1:25 p.m., the hearing
16 was adjourned, to reconvene at 2:20
17 p.m., this same day.)

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1 AFTERNOON SESSION

2 2:30 p.m.

3 HEARING OFFICER BOUILLON: Mr. Ratliff,
4 do you have some -- do you have any more
5 witnesses?

6 MS. COTTLE: No, we had our two and
7 we're finished.

8 HEARING OFFICER BOUILLON: That's what I
9 thought. Mr. Ratliff, staff witnesses?

10 MR. RATLIFF: Staff has two witnesses.
11 The witnesses are David Flores, who is testifying
12 on visual resources, and secondarily, it's Joe
13 Loyer, who will be addressing the plume, which he
14 modeled.

15 I'd like them to both be sworn as a
16 panel, although they will testify separately --

17 HEARING OFFICER BOUILLON: If they're
18 both here.

19 MR. RATLIFF: -- they can answer the
20 questions --

21 HEARING OFFICER BOUILLON: There they
22 are.

23 MR. RATLIFF: -- together.

24 Whereupon,

25 DAVE FLORES and JOSEPH LOYER

1 were called as witnesses herein, and after first
2 having been duly sworn, were examined and
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MR. RATLIFF:

6 Q Mr. Flores, did you prepare the
7 testimony in the final staff assessment entitled
8 visual resources?

9 A Yes, I did.

10 Q Is that testimony -- first of all, did
11 you file revised testimony subsequent to that on
12 February 22nd?

13 A Yes, I did.

14 Q So there is a revised copy of the
15 testimony that was served after the normal FSA, is
16 that correct?

17 A That's correct.

18 Q And what was the purpose of those
19 revisions?

20 A To look at the final analysis prepared
21 by our air quality staff specialist, Joe Loyer, as
22 to the air quality analysis -- excuse me, the
23 actual visible plume analysis that was prepared by
24 the applicant's consultant.

25 Q Your testimony did not analyze the plume

1 inasmuch as its size or the modeling that was done
2 by the applicant for its size or duration, is that
3 correct?

4 A That's correct.

5 Q Mr. Loyer analyzed that?

6 A Yes.

7 Q And your testimony is supposed to
8 embrace the entire area in terms of impact,
9 whereas Mr. Loyer's merely assesses the plume and
10 its size and duration?

11 A That's correct.

12 Q Okay. In its revised form is your
13 testimony true and correct to the best of your
14 knowledge and belief?

15 A To the best of my knowledge, yes.

16 Q And could you summarize it briefly,
17 please.

18 A Yes. Staff analyzed the potential
19 visual impacts of the proposed project and in
20 compliance with the appropriate LORS. As provided
21 in the FSA, staff's analysis is organized as
22 follows:

23 We described the methodology used in the
24 visual assessment. We described the appropriate
25 laws, ordinances, regulations and standards, which

1 are the LORS. And we assessed the visual setting
2 of the proposed power plant including the linear
3 facility routes.

4 Staff also evaluated the visual impacts
5 of the proposed project on the existing setting.
6 As indicated in the AFC, three KOPs were
7 identified, and were discussed in staff's
8 analysis.

9 Staff also evaluated the compliance of
10 the project with the appropriate LORS, and also
11 evaluated the visual cooling tower plume
12 characteristics.

13 Staff also evaluated the lighting of the
14 proposed project site and the potential to cause
15 glare and back-scatter to the surrounding area.
16 And also staff recommended measures needed to
17 mitigate any potential significant adverse visual
18 impacts of the proposed project, and to achieve
19 compliance with the LORS.

20 In evaluating the three KOPs, staff
21 concluded that the project may cause significant
22 visual impacts in the area of KOP-3, which is the
23 Vedder Road residential area. Staff discusses the
24 visual effects of the power plant, lighting of the
25 project site, and the potential to cause glare and

1 back-scatter to the surrounding area.

2 To reduce these visual impacts to
3 insignificance, staff generally agreed with the
4 applicant's proposed mitigation in regard to color
5 and lighting of the power plant.

6 Staff expanded the applicant's proposed
7 mitigation with more specific conditions of
8 certification to insure that the conditions are
9 more precisely developed.

10 Also provided is an analysis of the
11 cooling tower plume and a discussion of the
12 visible cooling tower plume characteristics and
13 effects in the surrounding area.

14 Mr. Joseph Loyer, a chemical engineer
15 and CEC air quality specialist, reviewed the
16 independent plume analysis prepared by the
17 applicant to draw a conclusion of the plume's
18 visual impact on the surrounding property.

19 Mr. Loyer's independent conclusions are
20 based on the modeling for frequency, duration and
21 size of the plume for the project cooling towers.

22 Staff's analysis indicates that the
23 plume visibility, frequency and size will depend
24 primarily on the design and the type of combustion
25 turbine generator, heat recovery steam generator,

1 auxiliary boiler, as well as meteorological
2 conditions of temperature and humidity.

3 Overall staff's visual determination is
4 rated insignificant due to the limited number of
5 viewers. The existing landscaping
6 characteristics, for example, and also the current
7 visible plume from the other sources and the hours
8 the actual plume is visible.

9 Under the compliance with the LORS,
10 staff addresses compliance with the local LORS and
11 specifically the implementation of the landscaping
12 plan, painting requirements and visual buffers.

13 Staff also addresses the applicant's
14 proposed mitigation and effectiveness, and
15 expanded upon the conditions of certification.

16 As proposed in staff's analysis there
17 are seven conditions of certification that are
18 listed, and again, they deal specifically with the
19 color of the power plant, the nonreflective
20 fencing, lighting of the proposed facility with
21 hooded fixtures, and also again landscaping and
22 screening of the project site.

23 This essentially completes my brief
24 analysis.

25 Q That concludes your summary?

1 A Yes, it does.

2 Q You heard the question addressed to the
3 prior witness, applicant's witness, concerning the
4 KOP-2 transmission line adjacent to the train
5 tracks today.

6 The question had to do with individual
7 impact that might occur because of use of the
8 train tracks. Do you remember that question?

9 A Yes. Staff, in discussions with the
10 train representatives, had indicated to me early
11 last summer that they were anticipating, maybe
12 between five to ten years, that they would utilize
13 that track as a dinner train.

14 It was speculation on their part due to
15 the fact that in discussions with the residents of
16 Burney there was the possibility of having
17 festivals and creating bed-and-breakfasts in the
18 area, which would encourage tourism to the area.

19 But they felt that this was just too
20 speculative for them. And they felt that they
21 would wait and see if, in fact, the issues of
22 tourism did, in fact, grow, then they would take
23 that in consideration. But it was some time off.

24 Q What would be the duration and view if a
25 train did travel on down that track with

1 passengers?

2 A It would be a short duration. In taking
3 a field trip at the time, we were down there at
4 one time, I would say between 60 to 70 feet of the
5 area would be seen by the occupants in the train.
6 At which time the applicant had indicated that
7 visual screening was being proposed such as trees
8 along that corridor.

9 MR. RATLIFF: At this point I would like
10 to go ahead and have Mr. Loyer sworn, and I would
11 like to have him summarize his testimony.

12 HEARING OFFICER BOUILLON: He's already
13 been sworn.

14 MR. RATLIFF: Oh, he's been sworn, okay.

15 DIRECT EXAMINATION

16 BY MR. RATLIFF:

17 Q Mr. Loyer, did you prepare the
18 testimony, I think it was filed on February 22nd,
19 is that correct?

20 A I believe so.

21 Q And it's titled cooling tower plume
22 visibility analysis?

23 A Yes, that's correct.

24 Q And your experience regarding this type
25 of modeling has to do with the air dispersion

1 modeling that you do in the air quality unit, is
2 that correct?

3 A This type of modeling does not have a
4 significant resemblance to air dispersion
5 modeling, just because it addresses only the steam
6 emissions from a cooling tower. It does not
7 address the emissions from the steam or air
8 emissions from a HRSG stack or a boiler stack.

9 Q What is the model that you use?

10 A Typically staff recommends the use of a
11 model called SACTI. It's actual name is seasonal
12 annual cooling tower impact program.

13 Q And are you familiar with that model?

14 A Yes, I am.

15 Q And is that why you did the analysis?

16 A The analysis was performed by Mr. Ken
17 Richmond and I reviewed the analysis.

18 Q I see. Can you summarize your testimony
19 briefly?

20 A I reviewed and evaluated the cooling
21 tower plume visibility analysis provided by the
22 Three Mountain Power Plant applicant. This was in
23 response to data request, staff data request
24 number 39.

25 Staff compared the 1995 meteorological

1 data used as the input to the SACTI model to 1985
2 Redding data, the nearest airport. The ambient
3 temperatures were cooler in the project area,
4 staying below 100 degrees, and above 23
5 Fahrenheit.

6 Wind directions and wind speeds seemed
7 to be very similar. Relative humidity was,
8 unfortunately, not available at the Redding site,
9 so staff could not compare the relative humidity
10 of the two sources.

11 Staff feels that the meteorological data
12 used by the applicant was within reasonable
13 parameters.

14 The modeling for a cooling tower plume
15 as a general practice, we allow the applicant to
16 eliminate hours during a year that are considered
17 low or nonvisibility. These would include
18 nighttime hours, fog hours, heavy rain hours,
19 things of this nature.

20 These are sometimes indicated in
21 meteorological files, sometimes they are not.
22 Sometimes they must be determined through
23 available information at the time.

24 The applicant in this case did eliminate
25 about, -- eliminated approximately 53 percent of

1 the meteorological file, which is a little low for
2 most of the cases that we look at in general.

3 Q You mean they could have eliminated more
4 hours typically?

5 A Yes. They could have eliminated more
6 hours.

7 Q And the hours that are being eliminated
8 include what, night hours, what else?

9 A They include nighttime hours and hours
10 that the applicant feels are indicative of low
11 visibility conditions. Their conditions for this
12 are 100 percent humidity, and wind speeds below 2
13 miles per hour.

14 Let's see -- if I could give the project
15 manager to put up figure 1. Because the applicant
16 submitted an errata, staff has also prepared some
17 additional material to help explain the SACTI
18 model and its shortcomings, or it's maybe just
19 illuminate what it's output truly means.

20 Figure 1 is my crude representation,
21 hand-drawn, of the representative parameters that
22 SACTI put out in this case. We're talking about
23 the height of the plume, the radius of the plume,
24 and the length of the plume.

25 In this particular case we're looking at

1 a plume coming out of a single cell cooling tower
2 that is laid over to the right. The plume has a
3 center-line to it. SACTI reports the height, the
4 height that SACTI is talking about is the
5 difference between the top of the plume tower and
6 the center-line of the plume. It is not the
7 ultimate height of the plume, not in this
8 particular case.

9 The ultimate height of this plume would
10 be the height of the cooling tower, the height
11 that SACTI reports, and the radius that SACTI
12 reports. The radius that SACTI reports is the
13 maximum radius that the plume approaches.

14 The length, in this particular case,
15 actually is the length of the plume.

16 And figure 2, we have a slightly
17 different situation. This particular case we have
18 the single cell cooling tower and a plume that is
19 rising more or less above the cooling tower in a
20 roughly conic shape.

21 It may look like I erroneously drew the
22 center-line not perpendicular, but I did that on
23 purpose, just to demonstrate that the center line
24 does not typically go straight up. There will be
25 a slight difference in what SACTI reports as the

1 length as opposed to what SACTI reports as the
2 radius in this particular situation.

3 The height in this situation, the
4 ultimate height would be the height of the cooling
5 tower plus the height that SACTI reports.

6 This situation -- I'm done with this
7 figure now -- because of this particular reporting
8 mechanism that SACTI uses, it's difficult
9 sometimes to accurately and fairly portray how
10 high the plumes are going to be, how long they're
11 going to be, or how big around they're going to
12 be.

13 An other unfortunate aspect of SACTI, as
14 it puts out these three parameters, it does not
15 correlate the three. So, looking at the table you
16 cannot say that you will get a 100-meter-long
17 plume that will be 40 meters in diameter and 150
18 meters high. SACTI does not correlate these three
19 parameters.

20 Turning once again to the meteorological
21 data, we did find that 13 percent of the hours of
22 the meteorological data were missing. The USEPA
23 recommends that for air dispersion modeling, not
24 for SACTI modeling, but air dispersion modeling
25 that you use meteorological files that are missing

1 no more than 10 percent of the available data.

2 If you use a meteorological file that is
3 missing more than 10 percent, you are then
4 throwing additional doubt on the results of the
5 model.

6 I did an additional analysis beyond what
7 the applicant performed. There is an existing
8 facility at the proposed site that has a cooling
9 tower, a two-cell cooling tower. I understand
10 it's very old. I don't know much more about it
11 than that.

12 I do have some data from other projects
13 that represent fairly old cooling towers, so I
14 dropped that information into my analysis and
15 tried to compare what would be the probable
16 results of modeling the existing cooling tower
17 with the SACTI data that we were presented with.

18 And generally, what I find is that these
19 two plumes are going to be fairly close together.
20 The existing plume should be a little bit bigger
21 than the new plume. However, the significant
22 difference between the new plume and the old plume
23 will be that the old plume was more of a point
24 source, single point source. The new plume will
25 be a series of point sources that will tend to

1 combine together when they reach into the upper
2 atmosphere.

3 While staff concedes that there are
4 several problems with the analysis provided by the
5 applicant, we'd point out that these problems tend
6 to push the results in opposite directions.

7 Therefore, it is my opinion that the
8 applicant's analysis is an acceptable estimation
9 of the potential visual occurrences of the cooling
10 tower steam plumes.

11 The last additional piece of information
12 I have is if I could turn your attention to table
13 what I've called cooling tower steam plume table
14 E-1.

15 And in my testimony, cooling tower steam
16 plume table 2, what these two tables represent are
17 the table 2 in my original testimony represents
18 the daytime hour probability that a plume will
19 occur at the specified heights. If you look down
20 that first column it is plume height plus cooling
21 tower height in feet.

22 And as we get higher and higher plumes
23 we get lower and lower percentages. If we look at
24 the one height 155 feet, we see -- and we go over
25 to the fourth column, we see that that occurs

1 75.63 percent of the time. This is according to
2 the applicant's information that they submitted in
3 the SACTI results. We can also see that the
4 existing plumes will be approximately 208 feet
5 high.

6 Now, the new table that I presented is
7 more or less the same table with one important
8 difference. Instead of using the daytime only
9 non-fog hours, as we call them, the visible hours,
10 I include all hours, because I feel that in this
11 particular case we're talking about a SACTI result
12 that is less accurate than we like. But also one
13 that we can do very little about to change.

14 So in the new table we see a cooling
15 tower height 155 feet occurs 73.98 percent of the
16 time, slightly less. But the higher plumes will
17 occur slightly high -- slightly more as you go
18 down this table.

19 And that concludes my summary.

20 Q Thank you.

21 MR. RATLIFF: These witnesses are
22 available for cross-examination.

23 HEARING OFFICER BOUILLON: Before we --
24 oh, excuse me.

25 COMMISSIONER LAURIE: No, I had some

1 questions, too, Mr. Hearing Officer, so after you
2 get done with your comments I need some
3 clarifications.

4 HEARING OFFICER BOUILLON: All right.
5 I'd just like to get the record straight. First
6 of all, Mr. Flores, you have submitted revised
7 testimony on February 22nd. That is not a part of
8 the FSA. So I'm going to mark that as exhibit
9 next in order, 61, your testimony, and it's called
10 revised visual resources testimony.

11 And I notice in looking through that
12 testimony that the photographs, the package I was
13 given, at least, the photographs are not included.
14 And I take it you mean to include the photographs
15 that were in the FSA, itself?

16 MR. FLORES: Yes, that's correct.

17 HEARING OFFICER BOUILLON: Okay.

18 MR. FLORES: I think there was some
19 reference that the photographs, part of the
20 original FSA, were to be included as part of the
21 revised errata.

22 HEARING OFFICER BOUILLON: All right, so
23 when we admit your testimony into evidence, if we
24 do, the FSA, itself, will come in for purposes of
25 the photographs and tables only that are not

1 included in your revised testimony.

2 And also Mr. --

3 MR. LOYER: Loyer.

4 HEARING OFFICER BOUILLON: Yes. Your
5 testimony we are going to mark exhibit number 62,
6 and these tables which you distributed today and
7 which you had on the screen we're going to mark
8 exhibit number 63 for identification.

9 Now, Commissioner Laurie.

10 EXAMINATION

11 BY COMMISSIONER LAURIE:

12 Q Mr. Flores, talk to me about standards
13 for a moment. If we were measuring environmental
14 impact of noise, there are state standards against
15 which you measure.

16 If you're going to measure the
17 environmental impact of air quality issues,
18 there's federal and state standards that you use.
19 The same is true of water and other types of
20 impacts.

21 But when you talk about a visual impact,
22 let's speak for a moment about the riders on the
23 dinner train who will, for a period of 70 or so
24 feet, have a view of the project. And that might
25 be one to two seconds, perhaps.

1 One, how do you determine when it comes
2 to the subjectivity of aesthetics whether first an
3 impact is significant, and second, whether you
4 have adequately mitigated that impact? What
5 recognizable standards do you utilize to reach
6 your determination?

7 MR. FLORES: As to KOP-2, which is the
8 tracks which originally was the dinner train
9 proposal, staff looked at, first of all staff
10 asked the question of the dinner train
11 representatives, as to the timing --

12 COMMISSIONER LAURIE: Let me interrupt
13 for a moment. I'm asking a general question,
14 looking for a general response. What standards do
15 you utilize when it comes to visual resources to
16 determine if an impact is substantial, and second,
17 whether or not it's adequately mitigated?

18 MR. FLORES: It would generally be
19 viewer exposure as the timing, that would be the
20 important factor in making my determination. And
21 based upon that, then staff would then look at
22 various mitigations based on the actual timing,
23 duration of the view.

24 COMMISSIONER LAURIE: Okay. Let me ask
25 the question a little different way. Let's say we

1 weren't here to discuss a power plant, let's say
2 we were here to discuss a residential subdivision.

3 And currently out in the broad field in
4 which this residential subdivision is going to go
5 is sagebrush, or some other similar type of plant.
6 And what is being presented is a lot of folks
7 might say an attractive looking subdivision.

8 Well, how do you determine from a CEQA
9 perspective whether what's going to be built
10 detrimentally impacts the current environment?
11 I'm not equating this power plant with an
12 attractive residential subdivision, that's not
13 where I'm trying to go.

14 What I'm trying to get at is recognizing
15 that what the eye beholds is subjective, how do
16 you, as a matter of CEQA, develop a standard by
17 which to measure? So that you can determine, a)
18 whether or not an impact is significant; and, b)
19 whether or not that impact has been substantially
20 mitigated?

21 MR. FLORES: With a set of criteria
22 that's established as part of visual resources.

23 COMMISSIONER LAURIE: And is this in
24 CEQA guidelines?

25 MR. FLORES: No, it is not. It's

1 methodology that was established actually by
2 various individuals, and actually the Department
3 of Forestry, BLM has established methodology, and
4 in fact, staff has utilized various pieces of this
5 methodology that was established.

6 And essentially established their own
7 type of methodology, and naturally it's more
8 extensive than what you would see from BLM or the
9 Department of Forestry.

10 COMMISSIONER LAURIE: And is that
11 methodology discussed in your testimony?

12 MR. FLORES: Yes, it is.

13 COMMISSIONER LAURIE: Can you refer to
14 me specifically are there specific pages where
15 your methodology is referenced?

16 MR. FLORES: Yes. It actually starts on
17 page 2 of the report, and continues through page
18 4, which is actually just a brief outline of the
19 methodology that is utilized. And then towards
20 the back of the actual report it actually goes
21 more into depth of the methodology.

22 COMMISSIONER LAURIE: Thank you very
23 much, that's all I have.

24 HEARING OFFICER BOUILLON: Does the
25 applicant have any questions?

1 MS. COTTLE: No questions.

2 HEARING OFFICER BOUILLON: Mr. Wolfe?

3 MR. WOLFE: A couple.

4 CROSS-EXAMINATION

5 BY MR. WOLFE:

6 Q You refer to the methodology on page 2.

7 I'm looking at page 188 of the FSA, is that the

8 same thing? Visual resources appendix B

9 Commission Staff's visual assessment methodology?

10 MR. FLORES: I believe so, yes.

11 MR. RATLIFF: No, it's not -- oh, you're
12 talking about the --

13 MR. WOLFE: Appendix B.

14 MR. RATLIFF: That did not change in the
15 revised testimony.

16 MR. FLORES: Right.

17 MR. WOLFE: Okay. Let me just direct
18 your attention to that for a second, it says that
19 staff evaluated a number of factors in assessing
20 the visual setting of the project. And that those
21 factors included visual quality, viewer
22 sensitivity, visibility and viewer exposure, is
23 that correct?

24 MR. FLORES: Yes, that's correct.

25 MR. WOLFE: I'm curious. In the body of

1 the testimony you go through each of the key
2 observation points, 1 through 3, and provide a
3 brief analysis of each of these factors, but
4 apparently viewer sensitivity was omitted.

5 For example, on page 160, KOP-3, the
6 Vedder Road residential area which was the subject
7 of a lot of the discussion before lunch, there was
8 a brief summary of the factors of visibility,
9 visual quality and visual exposure, but not of
10 your sensitivity.

11 I was wondering what accounts for that
12 omission.

13 MR. FLORES: Well, actually what you see
14 in the FSA has changed considerably as to what's
15 actually been prepared as the errata. And so you
16 would have to refer -- this document has changed
17 considerably.

18 MR. WOLFE: So was there --

19 MR. RATLIFF: There was revised
20 testimony that we discussed when we introduced him
21 as a witness that was filed on February 22nd --

22 MR. WOLFE: Okay.

23 MR. FLORES: Right, it actually does go
24 into sensitivity of viewer exposure duration, and
25 so, yes, it has changed considerably.

1 MR. WOLFE: Are you able to just very
2 briefly summarize the viewer sensitivity aspect
3 with relation to the KOP-3 in the Vedder
4 residential area?

5 MR. FLORES: As to visual sensitivity in
6 KOP-3, Vedder Road, staff looked at -- had been up
7 there approximately four times, at different
8 various times of the day. And at each interval
9 staff would review from the road going up to the
10 ridge as to where the residential area is
11 situated. Saw a tree-lined ridge.

12 So from a sensitivity standpoint, staff
13 did not see that as significant based upon
14 observations, visual observations from the roadway
15 and also along the residential roadway system.
16 But did not go onto the properties, themselves.

17 MR. WOLFE: So you basically went up
18 there and you stood where presumably a resident
19 would stand and try to see the vista from their
20 perspective, and then reach a conclusion?

21 MR. FLORES: As much as I could, yes.

22 MR. WOLFE: As much as you reasonably
23 could.

24 MR. FLORES: I didn't want to go onto
25 private property.

1 MR. WOLFE: No, I understand, I
2 completely understand. But if we look on page
3 189, which is the second page of appendix B which
4 goes to the methodology, that actually describes
5 the methodology for ascertaining viewer
6 sensitivity.

7 And apparently there's two approaches to
8 it. The first is ascertaining direct viewer
9 attitudes, which is normally done, according to
10 this, by surveying potential viewers. Presumably
11 in the form of interviews or mailed surveys,
12 things like that.

13 And I understand, it explains here that
14 that's not always an easy thing to do. And so
15 sort of the second choice is to evaluate indirect
16 viewer sensitivity by looking at viewer
17 activities, what are people actually doing.

18 I guess my question is, it sounds like
19 neither of these two approaches was actually
20 undertaken in this case, is that correct?

21 MR. FLORES: As to the residents at
22 Vedder Road, staff, as much as possible, from the
23 roadway, without crossing private property, tried
24 to make that determination by driving along the
25 roadway system of the subdivision; also from,

1 again, as you go up along the elevated ridge, to
2 get at least a bird's eye view of the residential
3 area to determine whether or not there was, you
4 know, any type of viewer exposure at that point.

5 MR. WOLFE: But you did not follow
6 either of these two prescribed methodologies for
7 ascertaining that?

8 MR. FLORES: No, that's correct.

9 MR. WOLFE: And one final question. On
10 page 160 at the very bottom, evaluating visual
11 exposure vis-a-vis KOP-3, the Vedder Road
12 residential area, --

13 MR. RATLIFF: Excuse me, I'm having
14 difficulty following the cross-examination of the
15 old testimony as opposed to the revised. Do you
16 have the revised testimony?

17 MR. WOLFE: I don't, and I apologize for
18 that. Let me just finish my question because I
19 don't think it matters.

20 You state that the number of viewers is
21 low. And the view duration is long, therefore
22 viewer exposure is low to moderate.

23 I assume that the judgment that the
24 number of viewers is low is based on the statement
25 or the belief that there are approximately six

1 homes in this area, is that correct?

2 MR. FLORES: Yes, that's correct. Just
3 to clarify it much further, staff looked at case
4 law to determine whether or not, what is
5 considered significant. A threshold of
6 significant had not been determined in any of the
7 case law I've been able to discover. So staff
8 used my independent determination.

9 MR. WOLFE: So six seemed sufficiently
10 low as to render the aspect of viewer resource
11 impacts relating to visual exposure to be less
12 than significant?

13 MR. FLORES: That's correct.

14 MR. WOLFE: I'm just curious why then if
15 there are only six homes, why staff wouldn't have
16 made the effort to actually conduct the surveys,
17 which according to staff's own methodology, are
18 the preferred method of ascertaining visual
19 sensitivity?

20 Six homes doesn't seem like that many to
21 knock on the door, send a mailed flyer to asking
22 for a response in a post-paid envelope.

23 MR. FLORES: Actually this issue was
24 probably brought up during the second workshop
25 that was conducted in Burney. And that's correct,

1 it could have been done.

2 MR. WOLFE: Okay, thank you.

3 HEARING OFFICER BOUILLON: Ms. Crockett.

4 MS. CROCKETT: Thank you.

5 CROSS-EXAMINATION

6 BY MS. CROCKETT:

7 Q Mr. Flores, if, in fact, 11 homes were
8 involved with a direct view of the meadow, would
9 that make a difference in your evaluation?

10 A No, it would not.

11 Q Quickly, on the viewer sensitivity, your
12 initial -- your final finding on that was that the
13 impact would be low? Clarification on that is all
14 I'm asking.

15 A Allow me a moment.

16 Q I don't have your revised testimony in
17 front of me.

18 A Actually, no. At KOP-3, visual
19 sensitivity was considered high.

20 Q Would it --

21 A Because of residents in the area --

22 Q With the residents, okay, thank you.

23 First of all, I wanted to thank both of you for
24 all the work you've done on that. It mirrored a
25 lot of our concerns.

1 Was it noted by staff, the orientation
2 of most of those homes on the meadow in evaluating
3 viewer sensitivity and exposure?

4 A From my drive-by all I could tell from
5 looking at the homes is that there was no actual
6 direct view, frontal view of the meadow from -- of
7 course, there was discussions both at the workshop
8 and I believe in testimony regarding, well, from
9 the backyard views, as to the exposure at that
10 point.

11 But, again, staff wasn't able to make a
12 determination since I was unable to get onto the
13 property.

14 Q How far from the meadow is the road that
15 you are on when you're driving by to assess this
16 view impact?

17 A Well, actually I made my assessment
18 based on going out Vedder Road, going --

19 Q Vedder Road?

20 A Right, that's correct. And going along
21 the actual road into the subdivision.

22 Q Okay.

23 A And looking at the residences.

24 Q So, would it be fair to say that when
25 you turned left off of Vedder Road onto Goose

1 Creek, which is that little side road getting
2 closer to the homes on the meadow, that -- those
3 are five-acre parcels, we're all in agreement on
4 that. And that those are fairly long, narrow
5 parcels so that more homes can face the meadow.

6 It would be fair to estimate that you're
7 maybe close to 1000 feet from the meadow?

8 A Yes.

9 Q With trees between you and those homes,
10 and the viewshed?

11 A Yes.

12 Q So in reality you really didn't have a
13 clear view of their viewshed?

14 A Only what I could see from the driveway,
15 from the roadway.

16 Q Would it be fair to assume that most
17 people would place their living environment
18 towards the best viewshed?

19 A I don't know, I would think so, but --

20 Q Just generally?

21 A Generally, yes.

22 Q Most people prefer to face their
23 backyard as opposed to the front street?

24 A Yes.

25 Q Okay. So it would be fair to assume

1 from the Burney Resources Group's point of view,
2 that -- and I state that because it is our point
3 of view -- that the majority of living time that
4 the family would experience would be pointed
5 towards their backyard, which in essence is the
6 meadow?

7 HEARING OFFICER BOUILLON: I don't
8 think -- I don't have any objection from anyone,
9 but it seems to me that this witness has said he
10 wasn't at any of these residences and he doesn't
11 really know which way they face. And he's -- I
12 think it's just speculation as to this person
13 testifying where the primary or best view from
14 each of these residences is.

15 So I'm going to strike that question and
16 instruct the witness not to answer.

17 MS. CROCKETT: Okay.

18 BY MS. CROCKETT:

19 Q So because you haven't been at the
20 homes, you haven't investigated their viewshed,
21 you're willing to come up here and make a
22 statement that will impact their homes, but you're
23 not really comfortable in stating what that will
24 be in certain situations?

25 MS. COTTLE: That was quite

1 argumentative. I don't know if I'm --

2 MS. CROCKETT: It was, and I apologize.

3 I'm trying to -- I shouldn't be forming my
4 questions verbally.

5 BY MS. CROCKETT:

6 Q Would it be correct to assume that you
7 did your evaluation and put it down in your
8 testimony, and yet you really were not there to
9 see the actual viewshed that would be impacted?
10 Would that be a fair statement?

11 A No.

12 Q You didn't go on the property?

13 A What I did is did a field survey. Of
14 course I used the information that was provided by
15 the visual consultant of the applicant, and
16 utilized their criteria that they utilized as part
17 of their report.

18 And also their KOP, which was
19 established as representative of the area. So
20 staff was assuming using that data, plus my own
21 field observation of driving the roadway system, I
22 felt that was adequate to make my conclusions.

23 Q Okay. Thank you. Mr. Loyer, --

24 MR. LOYER: Loyer.

25 MS. CROCKETT: Loyer, I'm sorry.

1 MR. LOYER: Like attorney.

2 MS. CROCKETT: Not a problem. You
3 stated in your report that there was data missing
4 and you made mention of the EPA recommending that
5 data like that adds more suspect to the outcome of
6 that data.

7 MR. LOYER: That's correct.

8 MS. CROCKETT: I think in here you state
9 that there was a 13 percent error or questionable
10 data --

11 MR. LOYER: 13 percent of the data was
12 missing.

13 MS. CROCKETT: Was missing. Yet, in the
14 applicant's plume analysis they have 15 percent of
15 the data is calms. Is that other data, or is this
16 on top of the 13 percent that's missing?

17 MR. LOYER: I'm sorry, 15 percent of the
18 data is?

19 MS. CROCKETT: They report 15 percent of
20 their data is calm. Is that on top of the 13
21 percent that's missing?

22 MR. LOYER: Yes, that would be on top of
23 the 13 percent that is missing.

24 MS. CROCKETT: So there is 28 percent,
25 and as you had stated, the meteorological data has

1 some problems with it. And you said that the
2 United States Environmental Protection Agency
3 would recommend using this. It would be logical
4 to ask if you feel in your personal opinion this
5 data would stand EPA scrutiny?

6 MS. COTTLE: Again, we are not supposed
7 to be talking about EPA/PSD requirements. And I
8 realize the witness made a statement earlier to
9 that effect, but I'm going to continue to object
10 to any cross-examination questions that raise the
11 subject.

12 MS. CROCKETT: The witness has brought
13 in the EPA --

14 MS. COTTLE: Well, maybe we need to
15 strike that, then.

16 MS. CROCKETT: -- and I'm just asking,
17 since he felt it was relevant enough to comment
18 that this was an area of concern, that I would ask
19 him that question.

20 MS. COTTLE: It's not a question of
21 relevance. This is an issue that is part of the
22 phase two hearings. We are not supposed to be
23 discussing EPA/PSD requirements. That's clear.

24 HEARING OFFICER BOUILLON: That's not
25 the way I understood this witness' testimony with

1 respect to the EPA data. With respect to the --

2 MS. COTTLE: The EPA requirements have
3 nothing to do with the visual cooling tower plume
4 analysis.

5 HEARING OFFICER BOUILLON: He testified,
6 as I recall, and you can correct me if I
7 misunderstood him, that the EPA requirement he was
8 talking about was the amount of data, and that if
9 more than 10 percent of the data is missing your
10 results become more suspect than the normal case.

11 MS. COTTLE: Under the EPA/PSD
12 requirements --

13 HEARING OFFICER BOUILLON: Wait a
14 minute. And he testified that in this case 13
15 percent of the data was missing, and therefore it
16 cast additional doubt upon the accuracy of his
17 results to which he's testifying today.

18 And he said that's in fact why he did
19 the additional study taking into account not only
20 the daylight non-fog hours, but all hours. Is
21 that fair, Mr. Loyer?

22 MR. LOYER: That is correct.

23 HEARING OFFICER BOUILLON: All right.

24 And now, what exactly does your question have to
25 do with what I just said?

1 MS. CROCKETT: If this data is faulty or
2 has a high degree of being faulty, it would follow
3 that the plume analysis could very well be faulty.

4 HEARING OFFICER BOUILLON: That's a fair
5 question. Is that true, Mr. Loyer?

6 MR. LOYER: Let me answer that first in
7 a general sense. The plume analysis relies
8 heavily on the meteorological data, so if the
9 meteorological data is not very good, or is, in
10 fact, erroneous, yes, that casts doubt on the
11 results of the model. The model's only as good as
12 the input.

13 On this specific case, 13 percent of
14 this data is missing. I feel that the EPA
15 guidelines, even though they are based on PSD
16 analysis, do have some relevancy here. It is my
17 preference that in any plume analysis that I see
18 and review that they pass EPA muster.

19 I do feel that this particular MED file
20 would pass. I don't think that the 15 percent
21 relatively calm wind speeds or meteorological
22 conditions have a detrimental effect beyond what
23 they should have an effect on the model.

24 However, since we have 13 percent
25 missing data, and not less than 10, I view the

1 results with a more skeptical eye.

2 MS. CROCKETT: If the Brush Mountain MED
3 data is deemed not acceptable what happens to your
4 plume analysis?

5 MR. LOYER: The plume analysis is
6 invalid.

7 MS. CROCKETT: You say that for wind
8 dispersion modeling is different than for steam?

9 MR. LOYER: Yes.

10 MS. CROCKETT: And you rely on the MED
11 data off of Brush Mountain to do the steam
12 dispersion modeling, is that correct?

13 MR. LOYER: That's correct.

14 MS. CROCKETT: Are you depending on the
15 wind velocity data on Brush Mountain to give you
16 that data for the steam dispersion?

17 MR. LOYER: That's one aspect of it,
18 yes.

19 MS. CROCKETT: You talk about SACTI,
20 correct?

21 MR. LOYER: Correct.

22 MS. CROCKETT: Not being infallible?

23 MR. LOYER: Yes.

24 MS. CROCKETT: Has your modeling program
25 ever failed to accurately depict a plume with full

1 data?

2 MR. LOYER: Yes. We've had some
3 experiences with SACTI -- I may just clarify that,
4 SACTI is not the Energy Commission's model, this
5 is an EPRI model. And I've forgotten what EPRI
6 stands for.

7 Anyways, --

8 MS. CROCKETT: I'm familiar with EPRI,
9 go ahead.

10 MR. LOYER: Okay. We've had situations
11 where we've had very good MED data. We've known
12 quite a bit about the cooling tower, specifically
13 what exactly the cooling tower is going to be
14 doing, how it was going to be used.

15 And the results ended up from the model
16 stating that we weren't going to have plumes that
17 we thought were significant more than 5 percent of
18 the year.

19 The facility was built. We can see it
20 every day coming into the Energy Commission over a
21 bridge that we pass, some of us can. And on good
22 cold winter mornings we see very large plumes.
23 We've had people who live in that area that work
24 at the Commission who report that yes, virtually
25 every weekend during winter, son of a gun, we have

1 large plumes at that power plant.

2 Now, that being said, we've also had
3 incidences where we've had SACTI over-estimate
4 what the plume occurrences were going to be. And
5 it is a model, it is very fallible. Its results
6 are to be viewed as modeling results. They do not
7 necessarily run the same way as reality, as the
8 real world runs.

9 For cooling tower plumes it specifically
10 relies on the operator to determine how big those
11 plumes are going to be, really.

12 MS. CROCKETT: That was a lot of
13 information. Let me just digest it here. Thank
14 you for being so candid.

15 My question is you're not really sure
16 then what the plume analysis and reality, whether
17 they will be the same?

18 MR. LOYER: That is a good assessment.
19 One of the ways by which we try and get a good
20 handle on what will be reality is to attempt to
21 model existing plumes in the area.

22 We've done this on several locations and
23 we've come up with what we feel are good results
24 in those instances.

25 In this particular instance we do have a

1 plume in the area. We don't know a lot about that
2 particular cooling tower. We were researching
3 trying to find out more information.

4 As I have said in my testimony, we did
5 have some more or less stock information on old
6 cooling towers. What they generally -- what,
7 performancewise, they generally do.

8 And we can apply those to the SACTI
9 results and get a rough estimate of what they
10 would be.

11 MS. CROCKETT: Is the applicant's
12 cooling tower equipment you're used to dealing
13 with in the SACTI dispersion modeling?

14 MR. LOYER: Yes.

15 MS. CROCKETT: You've had reliable
16 results with this particular type of cooling tower
17 modeling?

18 MR. LOYER: I'd say they'd be reasonable
19 results.

20 MS. CROCKETT: What percentagewise would
21 you consider reasonable?

22 MR. LOYER: For a cooling tower
23 analysis, when we're not talking about health
24 effects, I would say that plus or minus 20 percent
25 is not a bad result.

1 MS. CROCKETT: Okay. You mentioned the
2 questionable area of humidity and visibility, rain
3 versus fog, with the applicant's data. And you
4 questioned that, in fact on page 1 of your
5 testimony, middle paragraph, staff does not agree
6 that 100 percent humidity and wind speeds less
7 than 2 miles per hour indicate low visibility.

8 And I think you went on to say for the
9 sake of safety that you removed about 50 percent
10 of that for nighttime visibility?

11 MR. LOYER: I don't think I exactly said
12 that.

13 MS. CROCKETT: Okay, --

14 MR. LOYER: I do agree that staff does
15 not agree that low visibility is indicated when
16 100 percent humidity and wind speeds are less than
17 2 miles per hour, we don't agree that that is
18 indicative in all cases that the visibility is
19 low.

20 In this particular case the resulting
21 refinement, if you will, in my opinion, results in
22 more hours being analyzed as daytime non-fog hours
23 than what is typical. Typically we see about
24 anywhere from 55 percent to 60 percent, I think.
25 Yeah, that's what I've got down.

1 And in this particular case we saw 53
2 percent removed.

3 MS. CROCKETT: It is either
4 invisibility, so I will pose this question to both
5 gentlemen, and whose ever area I'm drawing from
6 can speak up. There were 551 hours of fog time
7 delineated, 551, in your visibility?

8 Does that sound familiar?

9 MR. LOYER: I don't --

10 HEARING OFFICER BOUILLON: I'm sorry,
11 what was the question, Ms. Crockett?

12 MS. CROCKETT: There is a specific
13 amount of fog hours delineated in one of the
14 reports.

15 HEARING OFFICER BOUILLON: All right,
16 let's assume that's true. The question?

17 MS. CROCKETT: The question would be I
18 think when I divided that by -- in half by 12, I
19 got 45 days of fog. And I wanted to ask staff if
20 they felt that was a reasonable estimation for
21 fog.

22 HEARING OFFICER BOUILLON: For the
23 number of foggy days per year?

24 MS. CROCKETT: In the Burney area.

25 HEARING OFFICER BOUILLON: Why don't you

1 ask them what they think a reasonable estimation
2 of foggy days per year is in the Burney area, if
3 they know.

4 MS. CROCKETT: And if you do know, in
5 our area, if you referred to -- if you have
6 tables, what would be a reasonable -- what is
7 reported as an average amount of fog for our zone
8 or whatever, is considered?

9 MR. LOYER: I don't know.

10 HEARING OFFICER BOUILLON: Mr. Flores,
11 do you know?

12 MR. FLORES: I do not know.

13 HEARING OFFICER BOUILLON: All right.
14 Next question.

15 MS. CROCKETT: I think that covers my
16 questions on plume evaluation, thank you.

17 HEARING OFFICER BOUILLON: Mr. Evans?
18 For the record Mr. Evans indicated he had no
19 questions.

20 Commissioner Laurie?

21 COMMISSIONER LAURIE: I don't have any
22 other questions.

23 MR. RATLIFF: Could I have recross -- or
24 redirect, I should say.

25 HEARING OFFICER BOUILLON: I believe in

1 your case we'll call it redirect.

2 (Pause.)

3 MR. RATLIFF: Oh, you're waiting for me?

4 Oh, sorry.

5 REDIRECT EXAMINATION

6 BY MR. RATLIFF:

7 Q Mr. Flores, you were questioned earlier
8 by Mr. Wolfe concerning the viewer sensitivity of
9 the residential area. And the question that he
10 posed to you was that you did not -- or he asked
11 you whether or not you went door-to-door in that
12 area to determine whether viewer sensitivity was
13 high, is that correct?

14 A That's correct.

15 Q And you told him that you did not?

16 A That's correct.

17 Q And yet in the staff methodology are
18 residential areas typically considered to be high
19 viewer sensitivity?

20 A Yes, they are.

21 Q And was it considered to be high viewer
22 sensitivity in this case?

23 A Yes, it was.

24 Q In terms of the KOP-3, the staff view
25 for KOP-3 was a clear area, is that correct?

1 A That's correct.

2 Q And the residences, there was 11
3 residences that we've spoken of, whether they be
4 six or 11. Do we know that the view from the back
5 of those residences was unobstructed?

6 A No, we do not.

7 MR. RATLIFF: Okay, thank you. I have
8 no other questions.

9 HEARING OFFICER BOUILLON: Does that
10 elicit any further cross-examination? All right.

11 You care to offer that testimony that
12 was discussed earlier?

13 MR. RATLIFF: Yes, I would like to move
14 that into evidence.

15 HEARING OFFICER BOUILLON: Any
16 objection? All right. Exhibits 60, 61, 62 and
17 63 -- excuse me, 61, 62 and 63 will be admitted,
18 as well as Mr. Flores' portion of the FSA insofar
19 as it refers to charts and diagrams not included
20 in his revised testimony.

21 At this time I believe we've concluded
22 the hearings with the exception of a request that
23 I received from Ms. Crockett based upon the
24 testimony that came up earlier. She had requested
25 my permission to offer Mr. Crockett as a witness

1 to testify specifically that he is familiar with
2 the area around that meadow and that there are, in
3 fact, I believe 11 -- 10, that there are in fact
4 10 homes on the edge of the meadow.

5 I would entertain a stipulation from the
6 parties that if he was called to testify he would
7 so testify. Mr. Ratliff, do you have any
8 objection to that?

9 MR. RATLIFF: No.

10 HEARING OFFICER BOUILLON: Ms. Cottle?

11 MS. COTTLE: I guess we have no
12 objection.

13 HEARING OFFICER BOUILLON: Mr. Wolfe?

14 MR. WOLFE: I have no objection.

15 HEARING OFFICER BOUILLON: Mr. Evans?

16 MR. EVANS: No.

17 HEARING OFFICER BOUILLON: Does the
18 Committee have any objection to receiving that
19 evidence?

20 PRESIDING MEMBER KEESE: No.

21 COMMISSIONER LAURIE: No, if the parties
22 don't, I don't. Seems like it should be able to
23 very easily determine. The next time somebody is
24 up there somebody can -- and I'd like to hear from
25 somebody else.

1 So, if staff wants to stipulate today,
2 and the parties want to stipulate today, that's
3 fine. But should the parties go up there and find
4 some -- find nine or 12, and they want to offer
5 that into evidence, well, that's okay, too.

6 MS. CROCKETT: We do have a second
7 person here who could -- totally unrelated, that
8 could also --

9 COMMISSIONER LAURIE: From a different
10 party now.

11 MS. CROCKETT: From a different party.

12 MS. COTTLE: I guess I just don't
13 understand the purpose of this additional
14 testimony, given that it's been stated on the
15 record that it doesn't matter whether it's six or
16 11. It doesn't make any difference.

17 HEARING OFFICER BOUILLON: Ms. Cottle,
18 that's argument. That's argument, not relevant.

19 I believe that concludes the hearing
20 today.

21 We have no new hearing date since at
22 least orally we are vacating the ones on the
23 schedule.

24 We'll get out an order just as soon as
25 possible and serve everybody that was served with

1 the earlier notice.

2 This hearing is adjourned.

3 (Whereupon, at 3:30 p.m., the hearing
4 was adjourned, to reconvene sine die at
5 this same location.)

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CERTIFICATE OF REPORTER

I, DEBI BAKER, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Hearing; that it was thereafter
transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
hearing, nor in any way interested in the outcome
of said hearing.

IN WITNESS WHEREOF, I have hereunto set
my hand this 28th day of March, 2000.

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